

**Tuesday, April 27, 2004 (at 10:00 o'clock A.M.).**

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Lord God, the Ultimate Source of Goodness and Love, at the beginning of today's legislative session, we pause for a moment to offer a prayer to You and to open our hearts and minds to the relevance of spiritual realities. We are grateful for the many gifts which You continue to give us. In addressing the many complex matters in this year's budget, help us to comprehend issues accurately as we try to resolve differences of opinions in a mature and thoughtful manner. Teach us to be good and patient listeners to the proposals, suggestions and even the criticisms of others but firmly committed to our own priorities, principles, spiritual values and Your guidelines for a peaceful and ethical society. Grant us the gifts of both human and divine wisdom to work together as members of the one human family in deepening our respect for the dignity, human and civil rights and personal responsibility of all people in our communities.

Prayer.

Bestow Your blessings on the Speaker, the members and employees of this House and their families. Amen.

At the request of the Speaker, the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of allegiance.

*Resolutions.*

Resolutions (filed with the Clerk by Mr. Fagan of Taunton) congratulating Joseph L. Amaral on the occasion of his retirement, were referred, under Rule 85, to the committee on Rules.

Joseph L. Amaral.

Mr. Scaccia of Boston, for the committee on Rules, then reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mr. Fagan, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

*Petition.*

Mr. Costello of Newburyport presented a petition (subject to Joint Rule 12) of Michael A. Costello and Steven A. Baddour for legislation to establish a sick leave bank for Jamie Richard, an employee of the Department of Social Services; and the same was referred, under Rule 24, to the committee on Rules.

Jamie Richard, sick leave bank.

Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Costello of Newburyport, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence.

*Paper from the Senate.*

A petition of Joan M. Menard and David B. Sullivan for legislation to establish a sick leave bank for Sally Lamarre, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Public Service.

Sally Lamarre, sick leave bank.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2336) was referred, in concurrence, to the committee on Public Service.

*Engrossed Bills.*

The engrossed Bill relative to the election of town meeting members and validating the actions taken at certain town meetings held in the town of South Hadley (see House bill printed in House, No. 4380, changed) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted (more than two-thirds of the members having agreed to pass the same); and it was signed by the Speaker and sent to the Senate.

*Engrossed Bill.*

The engrossed Bill relative to the computerization of the examination for certification for the practice of public accountancy (see Senate, No. 2210, amended) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the Speaker and sent to the Senate.

*Orders of the Day.*

The House Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4600, amended) was considered.

Pending the question on passing the bill, as amended, to be engrossed, Messrs. Rodrigues of Westport, Rogers of Norwood and other members of the House moved that it be amended by adding at the end thereof the following section:

“SECTION 148. Notwithstanding the provisions of any general or special law to the contrary, the group insurance commission shall report on the feasibility of developing and implementing a voluntary health care plan for employees of private health and human service providers who deliver services under contract with departments within the executive office of health and human services and the executive office of elder affairs with no administrative and programmatic costs to the Commonwealth; provided further, that said report shall include providers who deliver services by rate; provided further, that said commission, in consultation with the executive office of health and human services, the executive office of elder affairs and the department of public health, shall report on the eligibility criteria required for the service providers in the plan and shall report on the costs of maintaining a separate health care risk pool for individuals in the plan; provided, however, that such report shall be predicated upon the requirement that health care costs and administrative costs of the plan shall be paid by eligible service providers and their employees; provided further, that said commission shall be authorized to develop a methodology to garnish human service contracts from other state agencies for such participating providers to

facilitate implementation of the plan and to recoup administrative and premium costs; provided further, that said report shall include, but not be limited to the following: (1) the number of covered lives to be enrolled in said plan, (2) the number of employees to be enrolled in said plan who previously had no health coverage, (3) the total health care expenditures of said plan, and (4) the premium amounts of said plan; provided further, that said report shall be filed with the clerks of the house and senate and the house and senate committees on ways and means on or before January 1, 2005; and provided further, that the Commonwealth shall not be obligated for any costs incurred by said report.”

The amendment was adopted.

Mr. Linsky of Natick then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 149. Section 29 of chapter 151A of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the words “the Social Security Act or”.

SECTION 150. Paragraph (6) of subsection (d) of said section 29 of said chapter 151A, as so appearing, is hereby amended by adding the following sentence:— Payments receiving under the Social Security Act shall not be subject to the provisions of this paragraph.”

The amendment was rejected.

Mrs. Parente of Milford then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 149. Notwithstanding the provisions of any general or special law, or rule or regulation to the contrary, the department of environmental protection shall not consider intra-family transfers as transfers of title requiring an inspection of a system for the treatment and disposal of sanitary sewage below the ground surface.”

The amendment was adopted.

The same member then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 150. Chapter 28A of the General Laws is hereby amended by inserting the following section:—

Section 11B. No placement agency shall be licensed to have its license renewed by the office until it shall demonstrate to the satisfaction of said office that it possesses a liability insurance bond in an amount sufficient to indemnify all prospective adoptive families against the loss of any advance payments made to such placement agency in any adoption proceedings or negotiations due to the financial failure or other discontinuance of business of such agency.”

The amendment was rejected.

Mrs. Parente then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 150. Section 111 of the General Laws is hereby amended by adding the following section:—

Section 219. No state hospital, clinic, mental health facility, mental retardation facility or any other medical care facility under the control of any agency of the commonwealth shall conduct or allow to be conducted any medical or scientific experiments on any patient or resident thereof without judicial authority and without informed written consent of the patient or his legal guardian.”

The amendment was rejected.

Bill enacted.

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General Appropriation Bill.

Messrs. Hynes of Marshfield and Scibak of South Hadley then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 150. Chapter 148 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding, after section 26E, the following new section:—

Section 26E½. Carbon monoxide detectors.

(a) All new or substantially renovated buildings or structures, occupied in whole or in part for residential purposes and containing not more than six units, shall be equipped with approved carbon monoxide detectors in accordance with the rules and regulations of the Board of Fire Prevention Regulations.

(b) All existing buildings or structures, occupied in whole or in part for residential purposes and containing not more than six units, shall, upon sale or transfer of such dwelling, be equipped by the seller with approved carbon monoxide detectors in accordance with the rules and regulations of the Board of Fire Prevention Regulations.

(c) The head of the fire department shall enforce the provisions of this section.”

The amendment was rejected.

The same member then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 150. Section 64 of chapter 143 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting in line 4 after the word “inspection” the following:— provided, however, that elevators in owner-occupied single family residences shall be inspected and tested at intervals of not less than five years.”

The amendment was adopted.

Mr. Nangle of Lowell then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 151. Notwithstanding the provisions of any general or special law to the contrary, in the event that any person, city, town or county is issued or granted a determination of need or exemption from determination of need for a service or technology defined now or in the future as an innovative service or new technology pursuant to section 25B of chapter 111 of the general laws, or the department of public health recognizes such an exemption, and such determination or exemption is to be implemented on or about the location for which another person had previously been issued a determination of need for a clinic location, or a clinic license, to provide the same, or a substantially similar, innovative service or new technology, said department shall issue an original license to such other person for the operation of a clinic location providing such innovative service or new technology at a location designated by such person within twenty-five miles of its previously approved clinic location, subject only to the requirements of the sixth through eleventh paragraphs of section 51 of chapter 111 of the general laws.”

The amendment was rejected.

Mr. Pedone of Worcester then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 151. Section 4 of Chapter 27 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting at the end of the second paragraph the following:— ; provided further, that no fewer than three members of said board shall be selected from the following fields: psychology, psychiatry and social work; and said members shall possess the following degrees: Ph.D. Psychology, M.D. with a board certification in psychiatry, a Ph.D. or a Masters degree in Social Work; said members shall be licensed respectively by the Board of Registration in Psychology, the Board of Registration in Medicine or the Board of Registration in Social Work.”

The amendment was rejected.

Mr. Koczera of New Bedford and other members of the House then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 151. Section 90 of Chapter 23 of the General Laws is amended by adding a new sentence to the end of subparagraph (c), “Effective January 1, 2004 any appointment of any member of the Labor Relations Commission will be by and with the advice and consent of the executive council.

SECTION 152. Section 4I of Chapter 7 of the General Laws is amended by adding a new sentence after the second sentence, “effective January 1, 2004 any and all appointments and reappointments to the Civil Service Commission shall be made by the governor by and with the advice and consent of the executive council.”

The amendment was rejected.

Mr. Mariano of Quincy then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 151. Section 1 of Chapter 258 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the definition of “Public employer” and inserting in place thereof the following definition:—

‘Public employer’, the commonwealth and any county, city, town, educational collaborative, or district, including any public health district or joint district or regional health district or regional health board established pursuant to the provisions of section twenty-seven A or twenty-seven B of chapter one hundred and eleven, and any department, office, commission, committee, council, board, division, bureau, institution, agency or authority thereof including the Massachusetts Water Resources Authority and a local water and sewer commission including a municipal gas or electric plant, a municipal lighting plant or cooperative which operates a telecommunications system pursuant to section 47E of chapter 164, department, board and commission, which exercises direction and control over the public employee, but not a private contractor with any such public employer, the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority, the Massachusetts Turnpike Authority, or any other independent body politic and cor-

porate. With respect to public employees of a school committee of a city or town, the public employer for the purposes of this chapter shall be deemed to be said respective city or town.

SECTION 152. Section 8(i) of Chapter 372 of the Acts of 1984 is hereby amended by inserting at the end thereof the following:—

The Authority shall be deemed to be a ‘Public Employer’ as defined by and for all purposes of Chapter 258 of the Massachusetts General Laws. Nothing in Chapter 258 of the Massachusetts General Laws shall be construed as abridging or restricting any rights or defenses to civil actions as provided for in Section 6(f) of Chapter 372 of the Acts of 1984.”

The amendment was rejected.

Mr. Nyman of Hanover and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 151. Chapter 148 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after section 34 the following three sections:—

Section 34A.

(a) Any owner, occupant, lessee, or other person having control or supervision of any assembly use group building as defined by the state building code and who causes or permits a dangerous condition to exist on the premises at anytime shall be punished by a fine of not more than \$5,000.00 dollars or by imprisonment in the house of correction for not more than 2½ years, or both.

For the purposes of this section, “dangerous condition” shall mean:

- 1) Any blocked or impeded ingress or egress;
- 2) The failure to maintain or the shutting off of any fire protection or fire warning system required by law;
- 3) The storage of any flammable or explosive without a properly issued permit of in quantities in excess of allowable limits of any permit to store;
- 4) The use of any firework or pyrotechnic device, as defined by the board of fire prevention regulations, without a properly issued permit; or
- 5) Exceeding the occupancy limit established by the local building inspector pursuant to chapter 143.

Nothing in this section shall preclude the issuance of a citation for a code violation, as provided for by chapter 148A for violations relating to the above described dangerous conditions.

(b) Whoever, having previously been convicted of violating the preceding paragraph, is found guilty for a second or subsequent violation of this section shall be punished by a fine of not more than \$25,000.00 dollars or by imprisonment in the state prison for not more than 5 years or in a house of correction for not more than 2½ years, or both such fine and imprisonment.

Section 34B.

Any person who violates any provision of the state building code or state fire code under circumstances that result in serious bodily injury or death to any person shall be punished by a fine of not more

than \$25,000.00 dollars or by imprisonment in the state prison for not more than 5 years or in a house of correction for not more than 2½ years, or both such fine and imprisonment.

Section 34C.

Whoever violates any provision of the state building code or state fire code, including any incorporated specialized codes, or any lawful order of the marshal, the head of the fire department or a state or local building inspector after actual notice of such violation or such order, shall be punished by a fine or not more than \$1,000.00 dollars or by imprisonment for up to 1 year or by both such fine and imprisonment. Such notice may be given by personal service, by posting the same in a conspicuous place on the premises affected thereby or by the lawful issuance of a citation pursuant to chapter 148A. Notwithstanding any other law to the contrary, the housing court, the district court, or the superior court shall have jurisdiction and equitable powers to enforce the lawful orders of the marshal or head of the department pursuant to chapter 148.”

The amendment was rejected.

Mr. Nyman and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 151. Chapter 143 of the General Laws is hereby amended by adding the following section:

Section 101. In the case of new construction of a school, school dormitory, assisted living facility, assisted living residence, or respite care facility, or in the case of a major addition to an existing school, school dormitory, assisted living facility, assisted living residence, or respite care facility, where such new construction or major addition is more than seventy-five hundred gross square feet in floor area, or contains four or more dwelling units, said construction shall meet the construction standards of the state building code, and be of at least type 1-B fireproof construction. For purposes of this section, the gross square feet of a building or addition shall include the sum total of the floor areas for all floor levels, basements and sub-basements, measured from outside walls, irrespective of the existence of interior fire resistive walls, floors and ceilings. In addition, no existing building shall be converted from any other use group to a school, school dormitory, assisted living facility, assisted living residence or respite care facility, unless the building is of at least type 1-B fireproof construction, or is upgraded to at least type 1-B fireproof construction. Owners of such buildings may be eligible for a rate reduction on fire insurance. The inspector of buildings, building commissioner or local inspector shall enforce the provisions of this section.

Whoever is aggrieved by the inspector of buildings, building commissioner or local inspectors interpretation, order, requirement, direction or failure to act under the provisions of this section, may, within forty-five days after the service of notice thereof, appeal from such interpretation, order, requirement, direction, or failure to act, to the board of appeals as provided in the state building code and section eight of chapter forty A.”

The amendment was rejected.

Mr. Nyman of Hanover and other members of the House then moved that the bill be amended by adding at the end thereof the following section:—

“SECTION 151. The third paragraph of Section 3 of 150E of the General Laws, as appearing in the 2002 Official Edition, should be amended by striking out the first sentence and inserting in place the following sentence:— The appropriate bargaining unit in the case of the uniformed members of the state police shall be a public safety professional unit composed of all such uniformed members in titles below that of major and above that of sergeant and a unit composed of all such uniformed members in titles below that of lieutenant.”.

The amendment was adopted.

Mr. Nyman and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 152. Chapter 143 of the General Laws is hereby amended by adding the following section:—

Section 101. In the case of new construction of a school, school dormitory, assisted living facility, assisted living residence, or respite care facility, or in the case of a major addition to an existing school, school dormitory, assisted living facility, assisted living residence, or respite care facility, where such new construction or major addition is more than seventy-five hundred gross square feet in floor area, or contains four or more dwelling units, said construction shall meet the construction standards of the state building code, and be of at least type 1-B fireproof construction. For purposes of this section, the gross square feet of a building or addition shall include the sum total of the floor areas for all floor levels, basements and sub-basements, measured from outside walls, irrespective of the existence of interior fire resistive walls, floors and ceilings. In addition, no existing building shall be converted from any other use group to a school, school dormitory, assisted living facility, assisted living residence or respite care facility, unless the building is of at least type 1-B fireproof construction, or is upgraded to at least type 1-B fireproof construction. Owners of such buildings may be eligible for a rate reduction on fire insurance. The inspector of buildings, building commissioner or local inspector shall enforce the provisions of this section.

Whoever is aggrieved by the inspector of buildings, building commissioner or local inspectors interpretation, order, requirement, direction or failure to act under the provisions of this section, may, within forty-five days after the service of notice thereof, appeal from such interpretation, order, requirement, direction, or failure to act, to the board of appeals as provided in the state building code and section eight of chapter forty A.”.

The amendment was rejected.

Mr. O’Flaherty of Chelsea being in the Chair,— Mr. Pedone of Worcester moved that the bill be amended by adding at the end thereof the following section:

“SECTION 152. Subsection (b) of section (3), of chapter 128A of the General Laws, as appearing in the 2002 Official Edition, is

hereby amended by inserting after the words “Norfolk county” in line 53 the following:— and Worcester county.”.

The amendment was rejected.

The same member then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 152. Subsection (4) of section (2), of chapter 128C of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the words ‘Norfolk county’ in line 73 the following:— and Worcester county.”.

The amendment was rejected.

Mr. Dempsey of Haverhill then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 152. There shall be an information technology advisory board. The advisory board shall consist of seven members including: the executive department’s chief information officer, the legislative department’s chief information officer, the judicial department’s chief information officer, the chair of the senate committee on science and technology, the chair of the house committee on science and technology, and two members appointed by the governor for terms of one year each, one of whom shall have expert knowledge in the area of information technology, one of whom shall represent the interests of business and the other the interests of consumers.

The board shall annually by July first of every year draft, recommend and present for signature to the Governor, the speaker of the house of representatives, the president of the senate, the chief justice of the supreme judicial court and the constitutional officers, a memorandum of understanding among and acceptable to the executive department, legislature, judiciary and constitutional offices that shall include information technology standards and a strategic plan for the signatories’ acquisition and use of information technology. In addition, the advisory board shall advise the executive department’s chief information officer on information technology issues, including the development of an enterprise vision, strategy and direction for the use of information technology in the executive department, the development of policy, strategic planning, and project selection criteria, and information technology architecture, infrastructure, information technology investments and security. The advisory board shall also file annually on July first of every year, a report with the Governor, the speaker of the house, the president of the senate, the constitutional officers, and the chief justice of the supreme judicial court, including its analysis and recommendations during the previous year.

The information technology advisory board’s membership shall meet regularly on a schedule to be determined by its members, but in any case no fewer than four times a calendar year. The members of said board shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties. The information technology division’s staff shall provide such assistance as the board may deem necessary.”.

The amendment was rejected.

Mr. Finegold of Andover then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 152. The division shall establish a special Fuel Cell Initiative commission which consists of: the commissioner of the Division of Energy Resources, or his designee, a representative of the Massachusetts Renewable Energy Trust, two representatives of the fuel cell industry, a representative of energy service providers, a representative from each of the electric transmission and distribution companies operating in the Commonwealth, a representative of the producers of hydrogen and methanol used for fuel cell trade, a specialist in emerging technology financing, an expert in the area of energy marketing, a representative from MassPort, a representative from the MBTA, and two members appointed by the Speaker of the House, and two members appointed by the president of the Senate, for the purpose of making an investigation and assessment of the initiative to establish a pilot project with fuel cell technologies.

Said Fuel Cell Initiative commission shall consider (1) the possibility of the Massachusetts Port Authority using fuel cell technology in a cost-efficient and useful manner, and (2) the Massachusetts Bay Transportation Authority using fuel cell technology in a group of public transportation buses used in the Boston area.

The commission shall determine whether the project would be viable using both environmental and economic determinants. The commission shall present their findings, along with an implementation plan, if appropriate, to the joint committees on energy and transportation no later than December 31st, 2004.”.

The amendment was rejected. Subsequently Mr. Finegold moved that this vote be reconsidered; and the motion to reconsider was negated.

Mr. Galvin of Canton and other members of the House then moved that the bill be amended by inserting at the end thereof the following section:

“SECTION 152. Section 150A½ of Chapter 111 of the General Laws is hereby amended by inserting the following:

(18) to prohibit the siting of a solid waste facility or the granting of a permit for the establishment, construction, expansion, maintenance, or operation of a solid waste facility within the Zone II area of contribution of an existing public water supply well; this prohibition shall apply to any solid waste facility which had not received a site assignment on or before January 1, 2004.”.

The amendment was adopted.

Representatives Kujawski of Webster and Spilka of Ashland then moved that the bill be amended by inserting after section 12 the following section:

“SECTION 12A. Section 11 of Chapter 21J, as it presently appears, is hereby amended by striking the first two sentences and substituting the following provision:

The board’s initial determinations of eligibility for reimbursement, and of the amount, if any, of reimbursement to be paid to claimants shall not be considered an adjudicatory proceeding, provided that any person aggrieved by such determination may appeal to the board pur-

suant to the provisions of chapter thirty A, and shall be afforded the right to an adjudicatory hearing as provided therein.”.

The amendment was rejected.

The same members then moved that the bill be amended by inserting after section 46 the following section:

“SECTION 46A. Section 37A of Chapter 148 of the General Laws, as it presently appears, is hereby amended by striking from the first sentence thereof the phrase ‘provided, that such tank does not have an acceptable form of leak detection and does not have a spill containment manhole and an overfill prevention device’ and by substituting a period for the semi-colon which follows the word ‘liquids’ in the first sentence.”.

The amendment was rejected.

The Speaker having returned to the Chair,— Mr. Naughton of Clinton moved that the bill be amended by adding at the end thereof the following three sections:

“SECTION 153. Section 45 of Chapter 13 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out in line 4 after the word ‘engineers’, the words ‘one registered land surveyor’ and inserting in place thereof the following words:— three registered land surveyors.

SECTION 154. Said section 45, as so appearing, is further amended by striking out in line 10 the words ‘registered land surveyor’ and inserting in place thereof the following words:— three registered land surveyors.

SECTION 155. Section 45, as so appearing, is hereby further amended by striking out in lines 12 and 13 the word ‘the’, and inserting in place thereof the word:— any.”.

The amendment was rejected.

Mr. Casey of Winchester then moved that the bill be amended by adding the following section:

“SECTION 153. The second paragraph of section 53 of chapter 146 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following words:— ; and provided, further, that the commissioner shall establish a category of light hoisting equipment, which shall include, but not be limited to, forklift trucks, pallet trucks and motorized hand trucks, which shall be exempt from the license requirements under this section.”.

The amendment was rejected.

The same member then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 153. Notwithstanding the provisions of any general or special law to the contrary, the chief medical examiner established pursuant to chapter 38 of the General Laws or any district medical examiner’s appointed pursuant to said chapter shall provide health care providers with timely autopsy information on patients who expire in their care for the purposes of quality assurance and improvement; provided that, the chief medical examiner or any district medical examiner shall not be required to submit said information if there is a law enforcement investigation of the death; and

provided further that, any information transferred complies with all state and federal privacy laws.”.

The amendment was adopted.

Mr. Fresolo of Worcester and other members of the House then moved that the bill be amended by inserting after section 24 the following section:

“SECTION 24A. Chapter 30 of the of the Massachusetts General Laws is hereby amended by inserting after section 9I, as appearing in the 2002 Official Edition, the following section:

Section 9J. In the event that the functions performed by employees in one department or agency are transferred to another department or agency, the employees performing such functions shall be transferred to the receiving department or agency without impairment of wages, seniority, collective bargaining, civil service or other rights enjoyed at the time of the transfer.”.

The amendment was adopted.

Mr. Hill of Ipswich then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 154. Notwithstanding the provisions of any general or special law to the contrary, the secretary of administration and finance shall study the feasibility of requiring each division and agency of the Commonwealth of Massachusetts to activate all TTY Messaging. Said study shall include analysis, recommendations and costs implications of: (1) requiring said activation for each active mailbox as compared to assigning at least one TTY enabled mailbox for each member’s office and administrative unit of government; (2) requiring any work group that employs or may employ individuals with visual impairments to download and install helper applications that allow individuals who are blind or who have visual impairments to work job functions that require the perception of information that is only visually discernable on a telephone; (3) requiring any agency of the Commonwealth of Massachusetts that employs Interactive Voice Response self-service applications to include prompts that would allow individuals who use TTY’s to communicate over the phone to access the self-service applications. Said study and all accompanying recommendations shall be submitted to the house and senate committees on ways and means no later than October 1, 2004.”.

The amendment was adopted.

Messrs. Kennedy of Brockton and Galvin of Canton then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 155. Section 98A of Chapter 272 of the General Laws, as amended by Chapter 126 of the Acts of 2000, is hereby amended by striking the following proviso: ‘; provided further, that in the case of a deaf or hearing handicapped person, or other physically handicapped person, such person carries and displays upon demand, written evidence that the dog accompanying him is a dog guide.’”.

The amendment was adopted.

After debate Mr. Fallon of Malden moved that the bill be amended by adding at the end thereof the following section:

“SECTION 156. Section 4I of Chapter 7, as appearing in the 2003 Official Edition, is hereby amended by striking out the first three paragraphs in their entirety and inserting in place thereof the following paragraphs:—

There shall be within the executive office for administration and finance, but not under its supervision or control, a commission to be known as the civil service commission, consisting of five members, two of whom because of vocation, employment, occupation or affiliation, can be classified as a bona fide representative of labor; 2 of whom shall have prior experience serving as a town administrator, city manger, selectman or city councilor, with whom the fifth member being appointed by a majority vote by the Governor, Senate President and Speaker of the House.

Upon the expiration of the term of office of a commissioner of the civil service commission, his successor shall be appointed by a majority vote of the Governor, Senate President and Speaker of the House for five years; provided, however, that if such successor is not appointed within sixty days of the expiration of the term of office of a commissioner, the said commissioner shall be deemed to be reappointed to a full term. Not more than three such members of said commission shall be members of the same political party, and, of the members of said commission who are enrolled as members of a political party on the voting list used at the primaries, not more than a majority of such members shall be of the same political party. The governor shall, from time to time, designate one of the members as chairman. The positions of chairman and each other member of the commission shall be classified in accordance with section forty-five of chapter thirty and the salaries shall be determined in accordance with section forty-six C of said chapter thirty. The commissioners shall receive their travel and other necessary expenses incurred in attending meetings.”.

The amendment was rejected.

Mr. O’Flaherty of Chelsea being in the Chair,— Mr. Kujawski of Webster and other members of the House moved that the bill be amended by adding at the end thereof the following section:

“SECTION 156. Section 15 of Chapter 152 of the Acts of 1997 is hereby amended by striking subsection (d) in its entirety and inserting in place thereof the following:—

(d) Notwithstanding any provision of this act to the contrary, the project, as defined in section 2, shall not be marketed or utilized for so-called gate shows or other similar consumer shows utilizing less than three hundred thousand square feet of rental space. The Authority may enter into agreements with operators of any so-called gate show or consumer show seeking to utilize three hundred thousand square feet or more of rental space; provided, however, that no such show shall be held prior to July 1, 2005.”.

After debate the amendment was rejected.

Mr. Kujawski of Webster and other members of the House then moved that the bill be amended by inserting after section 45 the following section:

“SECTION 45A. Massachusetts General Law Chapter 129 section 39A is hereby amended by striking the word “selling” in the second paragraph and adding the following paragraphs at the end:

Any breeder or breeder’s organization who breeds more than one litter per year of any breed of dog or cat and places any of those animals for sale, must register with the department of agriculture resources and report the sale of any such animals to the department. Included in this reporting shall be the name and address of the party or parties to whom such sale was made and the date of such sale.

Failure to register and report in compliance with this section and any promulgated regulations shall subject the offending party to a fine of five hundred (\$500.00) dollars for each failure to report a birth of an animal and five hundred (\$500.00) dollars for each sale of an animal.

The department shall promulgate rules and regulations at the earliest possible convenience to insure compliance with this section by such breeders.”

Pending the question on adoption of the amendment, the same member moved that it be amended, in line 2, by striking out the word “one” and inserting in place thereof the word “three”.

The further amendment was adopted.; and the pending amendment, as amended, then also was adopted.

Ms. Wolf of Cambridge and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 156. A commission shall be established to develop recommendations with regard to an expansion of the existing Massachusetts bottle deposit law to include additional non-alcoholic beverage bottles and alcoholic beverage bottles. The Commission shall include four appointees each of the Speaker of the House of Representatives and the Senate President, and three appointees of the Governor in each case, one appointee representing environmental interests and one representing industry interests and in the case of the Speaker and the Senate President, one legislative chair and a member of the minority party, and, in the case of the governor, a member of the administration. The commission shall consider such issues as the impact on the environment and present recycling efforts, the potential for revenue, and the concerns of all business sectors that are affected. The commission shall report back to the Speaker, the Senate President, and the Governor by November 1, 2004 with its recommendations.”

The amendment was adopted.

Mr. Nangle of Lowell then moved that the bill be amended in section 2 in item 8900-0001, in line 20, by inserting after the words “Neil Houston House” (previously inserted by amendment) the following: “; and provided further, that the department may expend up to \$1,000,000 for the Commissioner of Probation implementation

of a global positioning system utilizing tamper free ankle bracelets to track level 3 sex offenders actively on parole”.

The amendment was adopted.

Mr. Naughton of Clinton then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 157. Chapter 222 of the General Laws is hereby amended by adding the following section;—

Section 12. Notwithstanding any general law, rule, regulation or order to the contrary, attorneys-at-law and counselors-at-law as well as paralegals, legal secretaries and other legal staff, whom by virtue of their employment perform notary duties shall be exempt from maintaining a journal of their notary transactions.”.

The amendment was adopted.

Mr. Straus of Mattapoisett and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 158. Notwithstanding the provisions of any general or special law to the contrary, no email service provider shall scan incoming confidential email received in Massachusetts for the purpose of inserting third party ad content.”.

After debate the amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by striking out section 19; and after debate the amendment was rejected.

Mr. Rogers of Norwood and other members of the House then moved that the bill be amended by adding at the end thereof the following five sections:

“SECTION 159. Section 5B of chapter 29 of the General Laws, as most recently amended by section 163 of chapter 26 of the acts of 2003, is hereby amended by adding in the eighth paragraph after the word “therein”, the following:— Said consensus tax estimate shall include a figure equal to 2% of the previous fiscal year’s total general appropriations act in addition to the tax estimate; provided, that said figure shall be considered an upper limit for the use of non-reoccurring funding sources for the ensuing fiscal year; provided further, that non-reoccurring funding sources shall include funds held in trust and funds acquired from renewable revenue sources, but deposited into a special fund intended for later use, including the stabilization fund.

SECTION 160. Notwithstanding any general or special law to the contrary, there shall be a special commission to study issues related to non-discretionary state spending and the rate at which this form of spending is growing, why it is growing, and what can be done to slow its growth. The commission shall be chaired by the chairs of the house and senate committees of post audit and oversight, and shall be composed of two senators appointed by the senate president, two representatives appointed by the speaker of the house, one senator appointed by the senate minority leader, one representative appointed by the house minority leader, the treasurer or his designee, the secretary of administration and finance or his

designee, the secretary of health and human services or his designee, the commissioner of the department of education or his designee, a representative from the Massachusetts taxpayers association, a representative from the Massachusetts human services coalition, a representative from the Massachusetts hospital association, and a representative from the Massachusetts teachers association. The commission shall report to the house and senate clerks no later than January 31, 2005.

SECTION 161. There is hereby established a special commission to study, make recommendations and propose any legislation related to the use, reuse, lease, sale, conveyance, or any disposition of any interest in the Hynes Memorial Auditorium and the Boston Common Parking Garage. The commission shall consist of three persons to be appointed by the Governor, one of whom shall be the chairperson of the Massachusetts Convention Center Authority or his designee, and one of whom shall be a representative of the Back Bay Civic Association; three persons to be appointed by the mayor of the city of Boston, one of whom shall be the director of the Boston Redevelopment Authority, one of whom shall be a representative of the Greater Boston Chamber of Commerce; three persons to be appointed by the president of the senate, one of whom shall be the senate chairperson of the joint committee on state administration, and one of whom shall be a representative of the Greater Boston Convention and Visitors Bureau; and three persons to be appointed by the speaker of the house, one of whom shall be the house chairperson of the joint committee on state administration and one of whom shall be a representative of the Massachusetts lodging association. The Commission shall be chaired jointly by the house and senate chairpersons of the joint committee on state administration.

The commission, as part of its study, analysis and review, and making such recommendations shall focus on and consider the following: (i) that there shall be a comprehensive and coordinated strategy and plan for the use, reuse, lease, sale, conveyance or disposition of said auditorium, including the development of air rights above the existing facility and said garage; (ii) the continued use of the Hynes as a convention center venue owned, operated and maintained by the Massachusetts Convention Center Authority after the opening of the Boston Convention and Exhibition Center; (iii) the use of the Hynes Convention Center for any other purpose, other than as a convention center venue or as a convention center with other mixed uses, by any public or private entity or a combination thereof; (iv) a consideration of the state, city, community, and local business interests, including hotel, business, retail, and restaurant interests involved and impacted by (a) the continued use of the Hynes Convention Center as a convention center by the Massachusetts Convention Center Authority, a private entity, or a combination thereof, or (b) by the reuse of the Hynes Convention Center property for a use other than as a convention center venue or a mixed use thereof; (v) the feasibility of continued use of the Hynes Auditorium as a convention center with secondary development of the property, as a joint public/private partnership with the Massachusetts Conven-

tion Center Authority, including the development of air rights above the existing facility, subject to applicable state and local laws; (vi) the feasibility of the proceeds or a portion thereof of any sale, conveyance, or disposition of the Hynes Auditorium or the parking garage to be allocated to the Authority; (vii) the consideration of any other issues, studies, proposals or impacts that may be relevant, pertinent, or material to the study, analysis, and review of said commission; (viii) the commission shall create and receive advice and comments from elected state and city officials, representatives from neighborhood, professional, trade and business groups impacted by the potential use, reuse, lease, sale, conveyance or disposition of any interest in the Hynes Convention Center.

The commission shall prepare a final report of its findings resulting from its study, review and analysis and consideration, including legislative recommendations. Said commission shall file said report with both the clerks of the house of representatives and the senate, and shall also submit a copy of said report to the governor, the president of the senate, the speaker of the house, and the chairmen of the committee on ways and means and the joint committee on state administration on or before June 30, 2005; provided, that no reuse, lease, conveyance, as recommended by the commission, shall occur without legislative approval pursuant to Article 97 of the Constitution.

SECTION 162. Notwithstanding any general or special law to the contrary, Tewksbury hospital campus and all state owned land in the Town of Tewksbury is hereby exempt from the provisions of Section 548 of Chapter 26 of the Acts of 2003.

SECTION 163. Pursuant to the provisions of subsection (1) of section 4E of chapter 40J of the General Laws (i) there shall be no conditions precedent to said transfer, (ii) the condition precedent described in said subsection (1) shall be a condition subsequent to a transfer and (iii) the aggregate payments on account of the green power premium in any one fiscal year under all contracts entered into pursuant to the agreement described in said subsection (1) shall not exceed five million dollars. No additional transfers shall be required from said Renewable Energy Trust Fund pursuant to section 69 of chapter 4 of the acts of 2003 or pursuant to said subsection (1) in fiscal year 2005. All municipal electric departments, public instrumentalities and other governmental entities in the commonwealth are hereby authorized to purchase electricity from the commonwealth or its designee pursuant to the terms of the agreement entered into between the Massachusetts technology park corporation and the commonwealth pursuant to said subsection (1) and to purchase electricity or certificates as described in said subsection (1) from said corporation or its designee, and said corporation is hereby authorized to undertake such sales to any entity in the commonwealth.”;

By striking out section 5;

By striking out section 107; and

By adding at the end thereof the following four sections:

“SECTION 164. Paragraph (a) of section 12 of chapter 372 of the acts of 1984, is hereby amended by striking out the fifth sentence, as

General  
Appropriation  
Bill.

appearing in section 1 of chapter 83 of the acts of 2001, and inserting in place thereof the following sentence:— The aggregate principal amount of all bonds issued under authority of this act shall not exceed \$5,800,000,000 outstanding at any one time; provided, however, that bonds for the payment of redemption of which, either at or prior to maturity, refunding bonds shall have been issued shall be excluded in the computation of outstanding bonds.

SECTION 165. Section 16 of said chapter 372 is hereby amended by striking out the fourth sentence, as appearing in section 2 of said chapter 83, and inserting in place thereof the following sentence:— The aggregate principal amount of all bonds issued under the authority of this act shall not exceed \$5,800,000,000 outstanding at any one time; provided, however, that bonds for the payment of redemption of which, either at or prior to maturity, refunding bonds shall have been issued shall be excluded in the computation of outstanding bonds.

SECTION 166. Notwithstanding the provisions of any general or special law to the contrary, amounts expended from the Natural Heritage and Endangered Species Fund, established by section 35D of chapter 10 of the General Laws, shall be exempt from indirect cost charges pursuant to chapter 29 of the General Laws.

SECTION 167. The Department of Environmental Protection shall conduct a review of the operation of the Community Preservation Act, established pursuant to chapter 44B of the General Laws, including an assessment of whether limiting access to the program to imposition of a property tax surcharge is the most effective way of meeting community preservation needs, as defined in said chapter, throughout the commonwealth. This review shall include at least two public hearings, one of which shall be held in the western four counties of the commonwealth. The department shall solicit testimony regarding innovative ways that municipalities might generate local revenue streams that could qualify for matching funds from the Community Preservation Trust Fund. The department shall report back to the House of Representatives and the Senate with recommendations and legislation, if any, no later than March 1, 2005.”

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 154 members voted in the affirmative and 2 in the negative.

**[See Yeas and Nays No. 599 in Supplement.]**

Therefore the amendments were adopted.

Mr. Vallee of Franklin then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 168. Chapter 266 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by deleting section 143 in its entirety and inserting in place thereof the following:

Section 143 Definitions applicable to sections 143A to 143L.

Section 143. As used in sections one hundred and forty-three A to one hundred and forty-three E, inclusive, the following words shall have the following meanings:

‘Article’ or ‘recorded device’, the tangible medium upon which sounds or images are recorded or otherwise stored, and shall include

any original phonograph record, disc, wire, tape, audio or video cassette, film or other medium now known or later developed on which sounds or images may be recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original.

‘Audiovisual recording function’, the capability of a device to record or transmit a motion picture or any part thereof by means of any technology now known or later developed.

‘Motion picture theater’, movie theater, screening room, or other venue when used primarily for the exhibition of a motion picture.

‘Owner’, the person or other entity who owns a master phonograph record, master disc, master tape, master film or other device used for reproducing recorded sounds on a phonograph record, disc, tape, film, videocassette or other article on which sound is recorded, and from which the transferred recorded sounds are directly or indirectly derived; provided, however, that nothing contained in sections one hundred and forty-three to one hundred forty-three E, inclusive, shall be construed to apply to any person lawfully entitled to use or cause to be used such sound for profit through public performance, who transfers or causes to be transferred any such sound as part of a radio or television broadcast or for archival preservation.

SECTION 169. Chapter 266 of the General Laws, as so appearing, is hereby further amended by inserting after section 143E the following:—

Section 143F. Unlawful recording of a motion picture. Any person, in a motion picture theater while a motion picture is being exhibited, who knowingly operates an audiovisual recording function of a device WITH THE INTENT TO RECORD, without the consent of the owner or lessee of the motion picture theater shall be guilty of criminal use of real property and shall be punished in section 143I.

Section 143G. Immunity of the real property owner. The owner or lessee of a motion picture theater, or the authorized agent or employee, who alerts law enforcement authorities of an alleged violation of this section shall not be liable in any civil action arising out of measures taken by such owner, lessee, agent or employee in the course of subsequently detaining a person that the owner, lessee, agent or employee in good faith believed to have violated this section while awaiting the arrival of law enforcement authorities, unless the plaintiff can show by clear and convincing evidence that such measures were manifestly unreasonable or the period of detention was unreasonably long.

Section 143H. Immunity of law enforcement personnel. This section does not prevent any lawfully authorized investigative, law enforcement protective, or intelligence gathering employee or agent, of the state or federal government, from operating any audiovisual recording device in a motion picture theater where a motion picture is being exhibited, as part of lawfully authorized investigative, protective, law enforcement or intelligence gathering activities.

Section 143I. Violation of section 143F; punishment. A person who violates the provisions of section one hundred and forty-three F through one hundred and forty-three G, inclusive, shall be punished as follows: (i) upon a first offense, by imprisonment for not more

Amendments  
adopted,  
yeas and nays  
No. 599.

than two years, or by a fine of not more than one hundred thousand dollars, or both such fine and imprisonment. (ii) Upon a second or subsequent offense by imprisonment for not more than five years, or by a fine of not more than two hundred and fifty thousand dollars, or both such fine and imprisonment.

Section 143J. Nothing in this section prevents prosecution under any other provision of law.

Section 143K. If any section within this chapter is declared to be unconstitutional, invalid or inoperative in whole or in part, by a court of competent jurisdiction, such section shall, to the extent that it is not unconstitutional, invalid or inoperative, be enforced and effectuated, and no such determination shall be deemed to invalidate or make ineffectual the remaining sections of this chapter.”

The amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 168. (a) The purpose and intent of this section is to enhance available notification procedures to warn members of the general public of the likelihood they will encounter a level 3 sex offender in the community by allowing police departments to post certain information about such offenders on the internet as part of level 3 community notification plans, which the general court hereby finds to serve a substantial public safety interest.

(b) Section 178K of chapter 6 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the word “however,” in line 152, and inserting in place thereof the following:— ‘that such active dissemination may include publication of such information on the internet by the police department at such time and in such manner as the police or the board deem reasonably necessary; and provided further,’.”

The amendment was adopted.

Mr. Jones and other members of the House then moved that the bill be amended by striking out section 55 and inserting in place thereof the following section:

“SECTION 55. Chapter 218 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out section 35A and inserting in place thereof the following new section:—

If a complaint is received by a district court, or by a justice, associate justice or special justice thereof, or by a clerk, assistant clerk, temporary clerk or temporary assistant clerk thereof under section 32, 33, or 35, as the case may be, the person against whom such complaint is made, if not under arrest for the offense for which the complaint is made, shall, in the case of a complaint for a misdemeanor or a complaint for a felony received from a law enforcement officer who so requests, and may, in the discretion of any said officers in the case of a complaint for a felony which is not received from a law enforcement officer, be given an opportunity to be heard personally or by counsel in opposition to the issuance of any process based on such complaint unless there is an imminent threat of bodily injury, of the commission of a crime, or of flight from the common-

wealth by the person against whom such complaint is made. The court or said officers referred to above shall consider the named defendant’s criminal record and the records contained within the statewide domestic violence record keeping system maintained by the office of the commissioner of probation in determining whether an imminent threat of bodily injury exists. Unless a citation as defined in section 1 of chapter 90C has been issued, notice shall also be given of the manner in which he may be heard in opposition as provided herein.

The court, or said officer thereof, may upon consideration of the evidence, obtained by hearing or otherwise, cause process to be issued unless there is no probable cause to believe that the person who is the object of the complaint has committed the offense charged.

The term district court as used in this section shall include the Boston municipal court department and the juvenile court department.”

The amendment was adopted.

Mr. Tobin of Quincy and other members of the House then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 169. Section 3 of chapter 22E of the General Laws, as appearing in the 2002 Official Edition, as most recently amended by Chapter 107 of the Acts of 2003, is hereby amended by striking in the first sentence the following words: ‘shall, within 1 year of such conviction or adjudication, submit a DNA sample to the department, which shall be collected by a person authorized under section 4, in accordance with regulations or procedures established by the director.’ and inserting in place thereof the following:— shall submit a DNA sample to the department within 1 year of such conviction or adjudication, or if incarcerated, prior to the release from custody, whichever occurs first. Such sample shall be collected by a person authorized under section 4, in accordance with regulations or procedures established by the director.

SECTION 170. Section 2 of Chapter 107 of the Acts of 2003, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:—

Any person currently on probation or parole as a result of such conviction, adjudication or other judicial determination, notwithstanding the date of such conviction, adjudication or judicial determination, who has not previously submitted a DNA sample to the department under said chapter 22E, shall submit a DNA sample to the department within 1 year after the effective date of this act, or prior to the termination of his probation or parole, whichever occurs first.”

The amendment was adopted.

Mr. Cabral of New Bedford then moved that the bill be amended by adding at the end thereof the following five sections:

“SECTION 171. Subsection (d) of Section 47 of Chapter 94C of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraphs:—

The final order of the court shall provide that said monies and the proceeds of any such sale shall be distributed in the following manner: twenty percent shall be distributed to the Massachusetts Drug Treatment and Prevention Fund for the purpose of community based drug prevention and treatment programs; the remaining eighty percent divided equally to the prosecuting district attorney or attorney general and the city, town, state, or metropolitan district police department involved in the seizure, provided, however, if more than one department was substantially involved in the seizure, the court having jurisdiction of the forfeiture proceeds shall equitably distribute said proceeds among these departments.

SECTION 172. Subsection (d) of section 47 of Chapter 94C of the General Laws, as so appearing, is hereby amended by inserting at the end of said section the following sentence: —

Said department may expend up to ten percent of monies and proceeds for drug rehabilitation, drug education, and other anti-drug or neighborhood crime watch programs that further law enforcement purposes.

SECTION 173. The third paragraph in subsection (d) of section 47 of Chapter 94C of the General Laws, as so appearing, is hereby further amended by striking out the last sentence and inserting in place thereof the following two sentences: — Within ninety days of the close of the fiscal year in which this bill is enacted and on each January fifteenth thereafter, each district attorney and the attorney general shall file a detailed report with the house and senate committees on ways and means on the deposit and expenditure of all monies in the trust fund including, but not limited to, the use of such monies for the purpose of protracted investigations, provision of technical equipment, drug rehabilitation, drug education, and other anti-drug or neighborhood crime watch programs. Reports filed with said committees annually on January fifteenth shall detail said deposit and expenditure of all monies for the preceding fiscal year and the current fiscal year through December thirty-first.

SECTION 174. The fourth paragraph in subsection (d) of Section 47 of Chapter 94C of the General Laws, as so appearing, is hereby further amended by adding the following after the end of said paragraph: —

Within ninety days of the close of the fiscal year in which this bill is enacted and on each January fifteenth thereafter, each chief of police of such city or town shall file a detailed report with the division of local services of the department of revenue on the deposit and expenditure of all monies in the special law enforcement trust fund including, but not limited to, the use of such monies for the purpose of protracted investigations, provision of technical equipment, drug education, and other anti-drug or neighborhood crime watch programs or other law enforcement purposes as the chief of police of such city or town, or the colonel of state police deems appropriate. Reports filed with said department annually in January fifteenth shall detail such deposits and expenditures of all monies for the preceding fiscal year and the current fiscal year through December thirty-first.

SECTION 175. Chapter 10 of the General Laws is hereby amended by inserting after 35T, as appearing in the 1998 Official Edition, the following section: —

Section 35U. There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Massachusetts Drug Treatment and Prevention Fund, to be administered and distributed to community-based efforts by the commissioner of public health for the purposes of drug prevention and treatment. Said fund shall consist of all funds received by the commonwealth from the following sources: proceeds under the provisions of paragraph (d) of section forty-seven of chapter 94C; fines paid under the provisions of sections thirty-two to forty, inclusive, of said chapter 94C; and appropriations, gifts, grants, or donations to said fund from public or private sources for the purposes of said fund. The state treasurer shall not deposit said revenues in, or transfer said revenues to, the General Fund or any other fund other than the Massachusetts Drug Treatment and Prevention Trust Fund, subject to appropriation. The state treasurer shall deposit monies in said fund in accordance with the provisions of section 34 and 34A of chapter 29 in such manner as will secure the highest interest rate available consistent with the safety of the fund. Subject to appropriation, said fund shall be expended only for the purposes of community-based prevention and drug treatment efforts at the direction of the commissioner of public health, and any unexpended balances shall be redeposited, as herein provided, for further use consistent with this section.”.

The amendment was rejected.

Mr. Casey of Winchester then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 171. Subclause (f) of clause Twenty-sixth of section 7 of chapter 4 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following words: — provided, however, that motor vehicle accident reports shall be made accessible, upon request, to those persons involved in the accident for which such report was created.”.

The amendment was rejected.

Mr. Binienda of Worcester then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 171. Chapter 266 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting at the end thereof the following section:

Section \_\_ . Whoever steals motor fuel as defined in Section 295A of Chapter 94 of the General Laws shall, for a first offense, be punished by a fine of not less than one hundred dollars and by reason thereof shall be reported forthwith by the court or magistrate to the registrar of motor vehicles who shall revoke immediately the license to operate motor vehicles or the right to operate motor vehicles of the person so convicted or adjudged, and no appeal, motion for new trial or exceptions shall operate to stay the revocation of such license or right to operate for at least one month.

For a second offense, the defendant shall pay a fine of at least two hundred dollars and shall by reason thereof shall be reported

forthwith by the court or magistrate to the registrar of motor vehicles who shall revoke immediately the license to operate motor vehicles or the right to operate motor vehicles of the person so convicted or adjudged, and no appeal, motion for new trial or exceptions shall operate to stay the revocation of such license or right to operate for at least two months.”.

The amendment was rejected.

After remarks Ms. Balsler of Newton and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 171. (a) Chapter 175 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 120E the following new section:

Section 120F. No company, and no officer or agent thereof, shall make or permit any distinction, classification, discrimination, or otherwise recognize any difference in life expectancy, on the basis of race, color, religion, sex, marital status, or national origin, in the amount or payment of premiums or rate charges, or in the benefits payable, or in any of the other terms or conditions of any group or individual annuity or pure endowment contract issued or delivered within or without the commonwealth which covers one or more residents of the commonwealth. Any violation of this section shall constitute an unfair method of competition or an unfair or deceptive act or practice in violation of chapter 176D.

(b) Section 132B of chapter 175 of the General Laws, as so appearing, is hereby amended by striking, in line 25, the word “sex.”.

(c) Paragraph (h) of subdivision 6A of section 144 of said chapter 175, as so appearing, is hereby amended by striking out, in lines 250 to 253, inclusive, the words “(i) the Commissioner 1980 Standard Ordinary Mortality Table of (ii) at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors” and inserting in place thereof the following words:— a current applicable gender-neutral mortality table adopted by the National Association of Insurance Commissioners that is approved by regulation promulgated by the commissioner as a recognized table for use in determining the minimum nonforfeiture standard.

(d) Said paragraph (h) of said subdivision 6A of said section 144 of said chapter 175, as so appearing, is hereby amended by striking out, in line 273, the words “Commissioners 1980 Extended Term Insurance Table”, and inserting in place thereof the following words:— a current applicable gender-neutral mortality table adopted by the National Association of Insurance Commissioners that is approved by regulation promulgated by the commissioner as a recognized table for use in determining the minimum nonforfeiture standard.

(e) Said paragraph (h) of subdivision 6A of said section 144 of said chapter 175, as so appearing, is hereby amended by striking out subparagraph (6) and inserting in place thereof the following subparagraph:—

(6) A company may, after notice to the commissioner, substitute a gender blended mortality table that is approved by regulation promulgated by the commissioner as a recognized table for use in determining the minimum nonforfeiture standard as an alternative to the use of a gender-neutral mortality table.”.

Pending the question on adoption of the amendment, Mr. Smizik of Brookline asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. O’Flaherty of Chelsea), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 144 members were recorded as being in attendance.

**[See Yea and Nay No. 600 in Supplement.]**

Therefore a quorum was present.

Subsequently a statement of Mr. Sánchez of Boston was spread upon the records of the House, as follows:

MR. SPEAKER: During the taking of the above quorum roll call, I was absent from the House Chamber due to being in another part of the State House on official business.

After remarks on the question on adoption of the pending amendment, Ms. Balsler of Newton moved that said amendment be amended by adding at the end thereof the following sentence: “This amendment is offered in memory of Susan B. Anthony, who never gave up in the fight for women’s rights.”.

After debate (Mr. Tobin of Quincy being in the Chair) the further amendment was rejected.

On the question on adoption of the pending amendment offered by Ms. Balsler and other members of the House, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 62 members voted in the affirmative and 94 in the negative.

**[See Yea and Nay No. 601 in Supplement.]**

Therefore the amendment was rejected.

Messrs. O’Flaherty of Chelsea and DeLeo of Winthrop then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 171. Section 17J of chapter 180 of the General Laws is hereby amended by inserting at the end thereof the following:—

Where the recipient specified is a duly licensed insurance agent or insurance broker receiving sums so deducted for any property-casualty insurance offered in conjunction with the employee organization, the agent or broker shall forward the sums deducted and received to the appropriate insurance company within two business days after receipt from the treasurer or common paymaster. No insurance company doing business in the commonwealth of Massachusetts shall refuse to accept payment of property-casualty insurance premiums without interest or charges in equal weekly or bi-weekly installments via payroll deduction for unionized state, county, municipal or other public employees where the agent or broker is remitting the deducted sums as required under this section.”.

The amendment was rejected.

Quorum.

Quorum,  
yea and nay  
No. 600.

Amendment  
rejected,  
yea and nay  
No. 601.

Mr. Murphy of Lowell and other members of the House then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 171. Notwithstanding the provisions of chapter 222 of the General Laws, or any other general or special law, rule, regulation or executive order to the contrary, the Secretary of State shall promulgate rules and regulations for the conduct of notaries public and the performance of their official duties and the enforcement thereof.

“SECTION 172. Chapter 222 of the General Laws is hereby amended by inserting after section 9, the following section:—

Section 9A. A non-attorney notary public who advertises notarial service in a language other than English shall include in the advertisement, notice, letterhead or sign the following prominently displayed in the same language, the statement— I am not an attorney and have no authority to give advice on immigration or other legal matters.”

The amendment was rejected.

Mr. Keenan of Southwick then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 171. Section 17 of Chapter 176H of the General Laws, in the 2002 Official Edition, is hereby amended by inserting the following sentences at the end thereof: ‘Individuals exclusively selling legal service plans under this chapter shall be required to only pass a legal services examination administered by a company registered with the Commissioner under chapter 176H; provided that said examination shall be approved by the Commissioner. ‘Legal services examination’ for purposes of this section shall mean an examination which solely tests an applicant’s knowledge of legal service plans and consumer protection laws regarding legal service plans.’”

The amendment was rejected.

Mr. Casey of Winchester then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 171. Section 25 of chapter 140D of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following paragraph:—

Such request or application shall not satisfy the requirements of the first paragraph unless, in addition to any other requirements prescribed by law, it is accompanied by a current photographic image from the frontal view of the unobstructed face of the person submitting such request or application, where such person is a natural person. Where the issuing creditor is engaged in the sale of property or services at retail, which the card to be issued may be used to obtain on credit, such photographic image shall be produced and obtained by the card issuer or its agent on premises, and by the use of photographic equipment, controlled or operated by the issuing creditor or an agent or employee thereof at the time of the submission of such request or application.”

The amendment was rejected.

Mr. Fagan of Taunton then moved that the bill be amended by adding at the end thereof the following three sections:

“SECTION 171. Section 124 of chapter 175 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking in line 2 the words “without previous medical examination or.

SECTION 172. Section 186 of chapter 175 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding at the end thereof, the following paragraph:—

Notwithstanding the provisions of sections one hundred and eight and one hundred and thirty-two of this chapter, no company shall be barred by the passage of any period of time from asserting as a defense to a claim under any insurance policy, or as grounds for rescission, that the statements contained in the life or accident or sickness insurance policy application, or any reinstatement application, were fraudulent and made with actual intent to deceive and gain coverage that the applicant or insured would not otherwise have qualified for. Said defense to a claim under this paragraph must be pertinent to said policy; and, provided further, that inadvertent mistakes made by an insured in the negotiation of a policy of insurance as set out in this paragraph shall not constitute fraud.

SECTION 173. The previous two sections of this act shall apply to all life and accident and health policies hereafter delivered or issued for delivery in the Commonwealth, any contract provision notwithstanding, and to any policy of life or accident and health insurance that has not become incontestable by its terms prior to the effective date of this act.”

After remarks the amendment was rejected.

Mr. Rogers of Norwood and other members of the House then moved that the bill be amended in section 2, in item 4406-3000, by striking out the figures “28,000,000” and inserting in place thereof the figures “29,700,000”;

In item 4403-2119, by striking out the figures “5,063,317” and inserting in place thereof the figures “5,673,317”;

By striking out section 59 (as printed) and inserting in place thereof the following section:

“SECTION 58. Subsection (j) of section 110 of chapter 5 of the acts of 1995, as most recently amended by section 528 of chapter 26 of the acts of 2003, is hereby further amended by striking out the first paragraph and inserting in place thereof the following three paragraphs:—

The department shall administer a program, to be known as the work program, for families that are not exempt under section (e); provided, however, that the family has received assistance from the program of transitional aid to families with dependent children for sixty days. Said program shall require that the head of household in each such family, or both parents in a two-parent family, shall participate in work-related activities for twenty hours each week if the youngest child of record is between the ages of two and the age at which full time schooling is mandatory, for twenty-four hours each week if the youngest child of record is between the age at which full

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time schooling is mandatory and age nine, and for thirty hours each week if the youngest child of record is nine years of age or older;

Said requirement may be met by working in a job for which compensation is paid; by a parent or head of household who is in emergency shelter and complying with housing search requirements; by working full time in the full employment program established by subsection (l); by participating in community service pursuant to the provisions of subsection (k); or by participating in education or training programs that meet the requirements of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 or any successor thereto, including activities required by or necessary for the successful completion of any such education or training program. At the discretion of the commissioner, recipients subject to said work requirement which fail, without good cause, to meet said requirement shall not receive assistance.

Subject to the approval of the federal department of health and human services, the department shall determine that good cause exists when a recipient is not in compliance with the work program or the terms of an employment development plan, and that said non-compliance is due to lack of appropriate and available child care, lack of affordable and reliable transportation, housing search, lack of an available and appropriate community service site identified by the department, or illness or disability. For purposes of this paragraph, a determination as to whether an available child care slot is appropriate shall take into consideration factors that the office for child care services recommends be considered or that a reasonable and responsible parent would consider in deciding whether a child care slot is appropriate, including the time required to travel to and from the provider and the recipient's home, work or other activities. Before determining that a recipient has failed to comply with the work program or the terms of an employment development plan without good cause, the department shall review all good cause criteria with the recipient to determine if good cause exists.”;

In item 4400-1000, by striking out the figures “116,381,295” and inserting in place thereof the figures [B] “66,881,295”;

In item 4400-1000, in line 36, by inserting after the words “Food stamp program” the following: “; provided further, that funds shall be expended on investigating welfare fraud at the Lowell area office and that the department shall report no later than March 21, 2005 on the results of their investigation to the house and senate committees on ways and means; provided further, that not less than \$250,000 shall be expended on services from the Food Source Hotline; provided further, that not less than \$250,000 shall be expended for the food stamp outreach program; provided further, that the department may allocate funds, not to exceed \$5,000,000 from this item to item 4400-1100 for the costs of the department’s caseworkers, so-called;”

By inserting after item 4400-1000 the following item:

“4400-1100 For the payroll of the department’s caseworkers, so-called; provided that only employees of bargaining unit eight, so-called, shall be paid from this item; provided further, that the department

may allocate funds, not to exceed \$5,000,000 from this item to item 4400-1000 for the administrative costs of the department of transitional assistance ..... [C] 50,000,000”;

In item 4403-2000, in line 20 by inserting after the figures “2004;” the following: “provided further, that not less than \$95,000 shall be expended for the Lift Transportation program operated by the Traveler’s Aid Society of Boston;”;

In item 4403-2000, by striking out the figures “315,107,806” and inserting in place thereof the figures “316,607,806”;

In item 4408-1000, in line 15, by inserting after the word “program;” the following:— provided further, that the department shall develop an intake process for participants in the vocational rehabilitation program of the Massachusetts Rehabilitation Commission to ensure that eligible participants receive their benefits in a timely fashion; provided further, that the department shall cooperate with the Massachusetts Rehabilitation Commission to develop said intake process;”;

In item 4403-2120, in line 23, by striking out the following: “provided further, that not less than \$2,000,000 may be expended through an interagency service agreement with the department of housing and community development on a pilot project for housing vouchers for families who would otherwise require emergency shelter services funded under this line item; provided further, that said pilot project shall be designed to minimize the use of hotels/motels and promote transition to permanent housing”;

In item 4800-0038, in line 26, by inserting after the word “standard;” the following: “provided further, that not less than \$348,850 shall be expended for Casa Esperanza; provided further, that not less than \$298,000 shall be expended for alternative schools for students aged 14 to 16, inclusive, who are placed before the court on child in need of services petitions in region 6; provided further, that not less than \$257,000 shall be expended for a contract for an integrated family services team in region 6; provided further, that not less than \$200,000 shall be expended to support the family center component of the Greater Lowell Family Resource Center; provided further, that not less than \$150,000 shall be expended in region 1 for a community-based family unification counseling program to prevent juvenile delinquency; provided further, that not less than \$150,000 shall be expended for a contract with Julie’s Family Learning program in the South Boston section of the city of Boston; provided further, that not less than \$140,000 shall be expended for the Comprehensive School Age Parenting Program, Inc. for expansion of a year-round school-based program in Boston high schools and middle schools for pregnant teens, young mothers and fathers and other youth at high-risk for school dropout; provided further, that not less than \$130,000 shall be expended for the Children’s Cove Cape and Islands Child Advocacy Center; provided further, that not less than \$99,000 shall be provided for the school-age parenting project at Framingham High School; provided further, that not less than \$99,000 shall be expended on a juvenile firesetters program; pro-

vided further, that not less than \$50,000 shall be expended for the purpose of providing case management services for the Amity Transitional Housing program in the city of Lynn; provided further, that not less than \$35,000 shall be expended by the Framingham office of the Department of Social Services for the Metrowest Campership program operated by the Ashland youth advisory board in partnership with said department; provided further, that not less than \$30,000 shall be expended for a contract with Big Brothers and Sisters of Cape Cod and the Islands;”;

In item 4800-1400 in line 8, by inserting after the words “housing resources;” the following: “provided further, that not less than \$200,000 shall be expended for the women’s shelter operated by SMOC of Massachusetts in the city of Worcester; provided further, that not less than \$95,000 be appropriated for the New England Learning Center for Women in Transition Survivor’s Project in Berkshire, Hampden, Franklin, and Hampshire counties; provided further, that not less than \$50,000 be allocated to Portal of Hope to oversee a domestic violence program that includes a teens-at-risk project, for the communities of Everett, Lynn, Malden, and Medford, without the need of approval by the Commissioner of Public Health; provided further; that not less than \$15,000 shall be made available to the Words-Not-Weapons mentoring project in Saugus; provided further, that not less than \$10,000 shall be expended for the purposes of the domestic abuse response team which serves Ipswich District Court;”;

By adding at the end thereof the following section:

“SECTION 171. There shall be a special commission for the purpose of making an investigation and study relative to the prescribing of psychotropic drugs for children under the protection and care of the department of social services. This commission shall consist of three members of the Senate, five members of the House of Representatives, and five persons appointed by the Governor. Said commission shall report to the House of Representatives the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the same with the clerk of the House of Representatives on or before the last Wednesday of December 2004.”;

By striking out item 7004-0099 and inserting in place thereof the following item:

“7004-0099 For the operation of the department of housing and community development; provided, that funds shall be expended for the Indian affairs commission; provided further, that notwithstanding any general or special law to the contrary, the department may make expenditures for the purposes of the department against federal grants for certain direct and indirect costs pursuant to a cost overhead allocation plan approved by the comptroller; provided further, that the comptroller shall establish and designate an account on the Massachusetts management accounting and reporting system for the purpose of making

such expenditures; provided further, that expenditures made against the account shall not be subject to appropriation and may include the cost of personnel; provided further, that the department shall submit quarterly reports to the house and senate committees on ways and means on object code expenditures made against the account; provided further, that notwithstanding any general or special law, rule, or regulation to the contrary, the department of housing and community development may conduct annual verifications of household income levels based upon state tax returns for the purposes of administering the state and federal housing subsidy programs funded in items 7004-9005, 7004-9009, 7004-9014, 7004-9019, 7004-9020, 7004-9024, 7004-9030 and 7004-9033; provided further, that as a condition of eligibility or continued occupancy by an applicant or a tenant, said department may require disclosure of the social security number of an applicant or tenant and members of such applicant’s or tenant’s household for use in verification of income eligibility; provided further, that said department may deny or terminate participation in subsidy programs for failure by an applicant or a tenant to provide a social security number for use in verification of income eligibility; provided further, that said department may also consult with the department of revenue, the department of transitional assistance or any other state or federal agency which it deems necessary to conduct such income verification; provided further, that notwithstanding the provisions of any general or special law to the contrary, such state agencies shall consult and cooperate with said department and furnish any information in the possession of said agencies including, but not limited to, tax returns and applications for public assistance or financial aid; provided further, that for the purposes of conducting such income verification, the director of said department may enter into an interdepartmental service agreement with the commissioner of revenue to utilize the department of revenue’s wage reporting and bank match system for the purpose of verifying the income and eligibility of participants in such federally assisted housing programs and that of members of the participants’ households; provided further, that for the purposes of clarification only, notwithstanding the provisions of section 12 of chapter 490 of the acts of 1980, said department may authorize neighborhood housing services corporations to retain, reassign, and reloan funds received in repayment of loans made pursuant to the neighborhood

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housing services rehabilitation program; provided further, that notwithstanding any rules or regulations to the contrary, the bureau of relocation shall apply a rate of depreciation toward expenses associated with the installation or related assemblage expenses when determining the fair market value for continued use of items of personal property in cases of a relocation claim based upon the actual direct loss of tangible personal property; provided further, that not less than \$100,000 shall be expended for the Hungry Hill Community Development Corporation; provided further, that not less than \$50,000 shall be expended for the Allston-Brighton Community Development Corporation for a grant program to enhance housing quality standards; provided further, that \$50,000 may be expended for Cedar Gardens task force in Natick; provided further, that not less than \$100,000 shall be expended for the establishment of the East Springfield-Indian Orchard-Pine Point Community Development Corporation; provided further, that not less than \$50,000 shall be expended for the Rockland Community Center in Rockland; provided further, that \$25,000 may be expended for the Beverly Affordable Housing Coalition; provided further, that not less than \$100,000 shall be expended for the Springfield Neighborhood Housing Services, Inc.; provided further, that not less than \$50,000 shall be expended for the West Broadway Housing Task Force for the purposes of tenant services; provided further, that \$50,000 may be expended for the Pleasant Street Neighborhood Network in Worcester; provided further, that \$50,000 shall be expended for the Bellingham Housing Task Force; provided further, that not less than \$10,000 shall be expended for the Turning Point Day Resource Center for the Homeless in the town of Wareham; provided further, that not less than \$50,000 shall be expended for the continued operation of computer technology centers at the Commonwealth Housing Development and the Jackson Mann Community Center; and provided further, that not less than \$100,000 shall be expended for Neighbors in Need in Lawrence ..... 6,875,188”;

By striking out item 7004-3036 and inserting in place thereof the following item:

“7004-3036 For housing services and counseling; provided, that the grants shall be through a competitive application process pursuant to criteria created by the department; provided further, that not less than \$400,000 shall be expended as grants for the operations of 9 regional housing consumer

education centers operated by the regional non-profit housing authorities; provided further, that not less than \$141,000 shall be expended for the Just A Start Corporation to administer a housing stabilization and conflict management services program to prevent homelessness; and provided further, that no funds shall be expended from this item in the AA subsidiary, so-called, for the compensation of state employees ..... 962,925”;

By inserting after item 7004-9315 the following item:

“7004-9316 For a one-year pilot project to provide assistance for homeless families and families at risk of becoming homeless; provided, that the amount of financial assistance shall not exceed \$3,000 per family; provided further, that funds may be used for security deposits, first and last month’s rent, moving expenses, utility payments or other uses as determined by the department of housing and community development; provided further, that assistance shall be administered by the department through contracts with the regional non-profit housing agencies; provided further, that no such assistance shall be provided to any family with an income in excess of 130 percent of the federal poverty level; provided further, that prior to authorizing a residential assistance payment for a family, the non-profit housing agency shall make an assessment of whether said payment, with or without additional housing stabilization support, will enable the family to retain its current housing, obtain new housing, or otherwise avoid homelessness; provided further, that in making such assessment the agency shall apply a presumption that said payment will enable a family to retain its housing, obtain new housing, or otherwise avoid homelessness if the family is paying less than or equal to 50 percent of its income for said housing; provided further, that a family who is paying more than 50 percent of its income for its housing shall be provided a fair opportunity to establish that a residential assistance payment will enable it to retain its housing, obtain new housing, or otherwise avoid homelessness; provided further, that residential assistance payments may be made through direct vendor payments according to standards to be established by the department; provided further, that the agencies shall establish a system for referring families approved for residential assistance payments who the agencies determine would benefit from such services to existing community-based programs that provide additional housing stabilization supports, including assistance in obtaining housing

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subsidies and locating alternative housing that is safe and affordable for said families; provided further, that the program shall be administered pursuant to guidelines established by the department; and provided further, that the department shall provide a status report to the secretary of administration and finance and the house and senate committees on ways and means no later than March 1, 2005 detailing all expenditures of said program, including but not limited to the number of recipients of the funds, the number of recipients of the funds who would have otherwise stayed in a homeless shelter, the number of recipients who stayed in a homeless shelter within one year of receiving the funds, the housing status of the recipients, the purposes for which each family used the assistance, the administrative costs and any other related costs of the program ..... 2,000,000”; and

By adding at the end thereof the following section:  
“SECTION 172. The department of housing and community development, in coordination with the executive office of health and human services, shall implement a statewide application system for all state public housing and, to the extent possible, other affordable housing resources. The Commonwealth shall not be liable for any costs related to developing or implementing this system. The system shall permit application in multiple housing authorities and for multiple affordable housing programs and resources through the submission of a single application form, while allowing each housing authority and management company to make its own eligibility and preference determinations to the extent permitted by law. The department shall: (a) develop goals for such an application system including, but not limited to, a system that is user friendly, cost-free to the user, accessible to persons with disabilities, accessible to non-English speakers, accessible to the general public, ensures protection of personal privacy, provides a single point of entry application process to as many affordable housing units in as many different types of programs and developments as possible, and provides a comprehensive, searchable database of affordable housing units; (b) develop specifications for a system meeting the goals described in this section; and (d) determine whether existing systems or technology meet the goals described in this section or whether new systems or technology need to be developed to meet these goals. The department shall implement the statewide application system established by this section no later than December 31, 2005.”

Pending the question on adoption of the amendments offered by Mr. Rogers of Norwood and other members of the House (Mr. DiMasi of Boston being in the Chair), Mr. Cabral of New Bedford moved that they be amended by inserting after item 1599-7104 the following item:

“1599-7777 For a reserve to fund supplemental emergency aid to the elderly, disabled and children; provided that, notwithstanding the provisions of section 4

of chapter 117A, qualified aliens and non-citizens otherwise permanently residing in the United States under color of law shall be eligible for cash assistance benefits pursuant to the program of emergency aid to the elderly, disabled and children to the extent authorized by this item; provided further, that such aid may be provided only if and to the extent that the comptroller certifies on and after February 1, 2005 that revenues for fiscal year 2005 are projected to exceed the amount in the joint revenue estimate for said fiscal year and any amount due to the Stabilization fund for reimbursement have been paid; provided further, that to the extent the conditions of the preceding proviso are met, the department of transitional assistance may expend funds from this item consistent with the provisions of this item .. 7,300,000”.

The further amendment was adopted.  
Mr. Falzone of Saugus then moved that the pending amendments be amended, in item 4400-1000, by striking out [at “B”] the figures “66,881,295” and inserting in place thereof the figures “64,381,295”; and in proposed item 4400-1100 by striking out [at “C”] the figures “50,000,000” (inserted by amendment) and inserting in place thereof the figures “52,500,000”.

The further amendments were adopted.  
On the question on adoption of the amendment offered by Mr. Rogers of Norwood, as amended, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 145 members voted in the affirmative and 12 in the negative.

Amendments  
adopted,  
yea and nay  
No. 602.

**[See Yeas and Nays No. 602 in Supplement.]**  
Therefore the amendments, as amended, were adopted.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by adding at the end thereof the following five sections:

“SECTION 173. Section 129B of chapter 140, as so appearing, is hereby amended by inserting after the word “issue”, in line 167, the following words:— provided, however, that if the cardholder applied for renewal before said card expired, such card shall remain valid for a period of 90 days after the stated expiration date on the card unless the renewal was denied.

SECTION 174. Said section 129B of said chapter 140, as so appearing, is hereby further amended by inserting after the word “expired”, in lines 201 and 215, in each instance, the following words:— , meaning after 90 days after the stated expiration date on the card.

SECTION 175. The first paragraph of paragraph (i) of section 131 of said chapter 140 of the General Laws, as so appearing in the 2002 Official Edition, is hereby amended by adding the following sentence:— For the purposes of provisions of section 10 of chapter 269, an expired license to carry firearms shall be deemed to be valid for a period not to exceed 90 days beyond the date of expiration, except

that this provision shall not apply to any such license to carry firearms which has been revoked or relative to which a revocation is pending.

SECTION 176. Said section 131 of said chapter 140, as so appearing, is hereby further amended by inserting after the word "issue", in line 230, the following words:— ; provided, however, that if the licensee applied for renewal before said license expired, such license shall remain valid for a period of 90 days after the stated expiration date on the license unless the renewal was denied.

SECTION 177. Said section 131 of said chapter 140, as so appearing, is hereby further amended by inserting after the word "expired", in lines 280 and 293, in each instance, the following words:— , meaning after 90 days after the stated expiration date on the license.”.

The amendment was adopted.

Mr. Petrucci of Boston then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 178. Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, a certain parcel of land located on the westerly side of Border Street in East Boston in the City of Boston is hereby eliminated as a Designated Port Area under 301 C.M.R. 25 and 310 C.M.R. 9 and any other applicable provisions of the code of Massachusetts regulations.

Said parcel located at 80 Border Street, East Boston, assessors parcel number 01-05412002, and shown on a plan entitled Plan of Land 80 Border Street Boston (East), Mass. Dated 3/31/2004. Said parcel contains approximately .514 acres of land.”.

The amendment was adopted.

Mr. Costello of Newburyport then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 179. Notwithstanding any general or special law to the contrary, the temporary tax amnesty program authorized by Chapter 4, Section 73 of the Acts of 2003 and Chapter 46, Section 113 of the Acts of 2003, which the Town of Salisbury adopted by vote of Town Meeting on October 27, 2003 is hereby extended for the Town of Salisbury until June 30, 2005.”.

The amendment was adopted.

Mr. Knuutila of Gardner then moved that the bill be amended by adding after section 26 (as printed) a new section:

“SECTION 26A. Section fifty-three of chapter forty-four of the General Laws is hereby amended after the words, ‘as provided in section six or six A’ in clause (1) by adding the words, ‘and provided further that the provisions of section twenty-seven of chapter one hundred forty-nine shall not apply to cities and towns for said projects in the amount of twenty-five thousand dollars or less.’.

The amendment was rejected.

Messrs. Carron of Southbridge and Kujawski of Webster then moved that the bill be amended by adding at the end thereof the following three sections:

“SECTION 180. Notwithstanding any general or special law to the contrary, the Charter of the Town of Oxford is amended as

herein provided to provide that the Development and Industrial Commission shall consist of five members appointed by the Town Manager for five year overlapping terms in accordance with the provisions of General Laws, Chapter 40, Section 8A.

SECTION 181. Notwithstanding the provisions of Section 1, the incumbent members of the Development and Industrial Commission shall continue to hold said appointments and to perform the duties thereof until the expiration of the term for which said individuals were appointed.

SECTION 182. The Charter of the Town of Oxford is amended as herein provided:

A. Strike Section 9-6-1.

B. Add a new Section 9-6-1 as follows: A Development and Industrial Commission of five members shall be appointed by the Town Manager for the five year overlapping terms in accordance with the provisions of General Laws, Chapter 40, Section 8A.”.

The amendment was rejected.

Representatives Harkins of Needham and Finegold of Andover then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 180. It is hereby declared that efficiency in the issuance of permits by local land use permit granting authorities offers environmental and economic advantages and is in the public interest. It is the intent of the general court to achieve these advantages through an act which would give municipalities the option to reorganize permitting authorities to coordinate permit reviews in order to minimize delays and unnecessary duplication, while preserving opportunity for full and adequate public participation, and without sacrificing substantive protection of public health, safety or the environment.

SECTION 181. The General Laws are hereby amended by inserting after chapter 43C the following new chapter:—

#### CHAPTER 43D.

Section 1. The provisions of this chapter shall apply in a city after acceptance by a majority vote of the city council with the approval of the mayor, in the case of a city with a Plan A, Plan B or Plan F charter; by a majority vote of the city council, in this case of a city with a Plan C, Plan D, or Plan E charter; by a majority vote of the annual town meeting or a special town meeting called for the purpose, in the case of a municipality with a town meeting form of government; or by a majority vote of the town council, in the case of a municipality with a town council form of government.

Sections two through five must be adopted together, but collectively may be adopted without section six or seven. If section six is adopted sections two through five must also be adopted. Section seven may be adopted separately. The adoption of any portion of this chapter shall be deemed to be an amendment to any contrary provisions of law, a local charter or laws having the force of a charter.

Section 2. Unless a contrary intention clearly appears, the following words or terms shall have the following meanings:—

'Issuing Authority', any local board, commission, department, or other municipal entity, that is responsible for issuing permits, granting approvals, or otherwise involved in land use development.

'Municipality', shall mean the locality acting through the relevant issuing authority or authorities as it pertains to actions required or allowed by this chapter.

'Permit', any permit, formal determination, order of conditions, license, certificate, authorization, registration, plan approval, or other approval for land use or development required by any department, or office within the municipality under statutory authorities contained in chapter forty A, chapter forty-one, sections eighty-one X through eighty-one GG, chapter forty-one of the General Laws, sections eighty-one A through eighty-one J, chapter one hundred and thirty-one, sections forty and forty A, chapter one hundred and eleven, sections twenty-six through thirty-two, chapter forty A, sections twelve through seventeen, chapter forty C or chapter seven hundred and seventy-two of the Acts of 1975, and all associated regulations, by-laws and rules. The term 'permit' shall not include the licensing of an individual to engage in a profession, or the decision of an agency to dispose of property under its management or control. The term 'permit' shall also not include pre-development reviews conducted by the Municipal Office of Permit Coordination or a Technical Review Team. Permits and approvals shall not include permits and approvals granted by the Massachusetts water resources authority under its authority or under delegated authority from agency otherwise covered by this act. Permits and approval actions taken pursuant to a federal delegation shall be excepted only to the extent that the terms of such delegation are inconsistent with this chapter.

'Technical Review Team', an informal working group consisting of representatives of the various issuing authorities designated by the head of their issuing authority, to review requests submitted under the procedures established pursuant to sections three through six of this chapter. The Technical Review Team shall not include members of the zoning board of appeals.

Section 3. (a) The municipality within one hundred and eighty (180) days of acceptance of this chapter, shall amend where necessary, rules and regulations on permit issuance to conform to this chapter, and may adopt guidelines consistent with this chapter. The municipality shall collect and ensure the availability of, and the issuing authorities shall memorialize and ensure the availability of, all governing statutes, local ordinances, by-laws, regulations, procedures and protocols pertaining to each permit. The municipality is encouraged to compile a comprehensive permitting process guidebook and to provide other informational assistance relative to permitting through a single point of contact established pursuant to section 3(b).

(b) A city or town which accepts this section shall establish, or designate an existing office or staff member to serve as, a single point of contact for the purposes of coordinating and facilitating the land use permitting process. For the purposes of this chapter, this office or staff member shall be referred to as the municipal office of

permit coordination, hereinafter, the 'Office'. In fulfilling the functions established in this chapter, the Office shall consult with the authorities having substantive jurisdiction over the issuance of permits. To the greatest extent possible, the Office shall be empowered to fulfill the procedural responsibilities of the municipality in this section.

(c) The municipality shall establish a procedure for coordinated and concurrent review of all permit reviews required for a single project, and, where feasible, shall coordinate municipal review with state review. Nothing in sections two through six shall be construed to alter to the substantive jurisdictional authority of issuing authorities.

(d) The municipality, through the Office, shall establish a procedure whereby the municipality will identify, based upon submission by the applicant of a form designed by the municipality all permits, reviews, and pre-development reviews required for a project; all required scoping sessions, public comment periods, or public hearings; all additional specific applications and supplemental information required for review, including, where applicable, the identification of potential conflicts of jurisdiction or substantive standards with abutting municipalities. The municipality shall notify the applicant of such requirements in writing within twenty (20) business days from receipt of the completed form. The municipality may provide for pre-application conferences to facilitate this process.

The Office and the applicant may publish an early notice in the local paper, and statewide paper or Environmental Monitor, with a description of the project and scope of review preliminarily suggested by the Office which early notice shall be in addition to any required notice for required public hearing, and which early notice may, at the municipality's option, direct inquiries to either the Office or the applicant.

The failure of the municipality to notify an applicant of a requirement of a public hearing or comment period shall not waive the legal requirement for any such requirement. If at any time an issuing authority determines that a permit or other pre-development review is required which it did not previously identify, it shall immediately notify the applicant by certified mail and shall, where public notice and comment or hearing are not required, complete action on the application filed for the previously unidentified permit within thirty-five (35) days of receipt of the completed application, or no later than the latest required decision date for any pending permit, whichever is later. Where public notice and comment or hearing are required for the previously unidentified permit, the required action date shall be no later than thirty-five (35) days from the later of the close of the hearing or comment period, which shall be scheduled to commence as quickly as publication allows.

(e) The municipality shall establish a procedure, following the notification of the required submissions for review as set forth in section 3(d), for determining the completeness of the submission by the applicant of all materials required for the review of the project, which shall be no later than ten (10) business days of receipt of the application materials. If the municipality fails to send notification that an application is not complete within that time period, the appli-

cation shall be deemed complete. If the municipality determines the application is not complete, the written notice shall include a concise statement regarding the reasons why the application is incomplete. The resubmission of the application or the submission of such additional information required by the municipality shall commence a new period for review of the additional information for purposes of determining completeness.

(f) The municipality shall, within one hundred eighty (180) days of the acceptance of this chapter, establish time periods within which all permit reviews shall be conducted and completed. The timelines shall begin to run upon issuance of the notice that the application materials are complete, pursuant to section 3(e). The timeline shall not exceed ninety (90) days for reviews which do not require public hearings, or one hundred and twenty (120) days for reviews which do require public hearing. The procedure shall provide for the consolidation of public hearings and public notices. Where appropriate, the municipality may establish general permits and permits by rule which shall consist of standards of performance specified by the issuing authority and shall be authorized after a written filing by the applicant.

(g) (i) If the issuing authority fails to act within the time period established by the municipality pursuant to section 3(f), the applicant may seek judicial review of such failure to act in the superior court within ten (10) days after the date on which the issuing authority was required to act. Service of process shall be upon the issuing authority. Plaintiff shall provide written notice of such action with a copy of the complaint to all parties on the administrative record within ten (10) days after the filing of the complaint and an affidavit of such notice shall be filed with the court. If no such affidavit is filed within such time, the complaint shall be dismissed. The court shall advance any action so that it may be heard and determined as expeditiously as possible. The court shall hear all evidence and determine the facts, and upon the facts determined, make such decree as justice and equity may require. Failure by the issuing authority to demonstrate in its answer compliance with said sections shall be dispositive of the issue of issuing authority liability. Such decree may include, without limitation, an order that the issuing authority act by a specified date or a requirement that a permit and necessary statement of conditions be issued forthwith. (ii) All of the timelines set forth in this chapter shall not apply where (a) the submitted materials for identifying permit requirements omitted relevant material, or the final application materials contained false or misleading information; (b) substantial changes to the project which affect the information required to process the permit application have occurred since the filing of the application; or (c) a change in law which affects information required to process the permit application for the project occurred after the application was filed, provided that the change is not a by-law or guideline change proposed by the permit issuing authority. (iii) Any time period specified in this section may be waived or extended for good cause by written request of the applicant with the consent of the municipality, or by the written request of the head of the issuing authority with the con-

sent of the applicant. Any time period specified by this section shall be extended when the issuing authority determines in writing either that action by another federal, state, or municipal government agency is required before the issuing authority may act; or that judicial proceedings affect the ability of the issuing authority or applicant to proceed with the application; or after commencement of enforcement proceedings which could result in revocation of an existing permit for that facility or activity and denial of the application. When the reason for the extension is no longer applicable, the issuing authority shall immediately notify the applicant, and shall complete its decision within the time periods specified in this section, beginning the day after such notice is issued. Any time period specified in this section may be extended by the head of the issuing authority where significant public comment has been received which would, on its face, appear to constitute grounds for the issuing authority to deny the permit or significantly modify the permit. (iv) An issuing authority may not use lack of time for review as a basis for denial of a permit if the applicant has provided a complete application in accordance with the provisions of this chapter.

(h) The municipality shall establish an informal procedure to allow permit applicants to obtain advisory review by a Technical Review Team, of any issue of law, policy, procedure, or classification that the applicant claims is in dispute between the applicant and the issuing authority and has affected or will affect the ability of the applicant to obtain timely review of the permit application. Procedures shall provide for filing by the applicant of a request for review, representation by the permit issuing authority on the Technical Review Team, and a timeframe not to exceed thirty (30) days for issuance of a decision. Invocation of this procedure shall toll the review time periods. Any advisory determination or ruling made pursuant to a procedure established under this section shall not constitute a decision or final action and shall not be subject to any right of appeal for administrative or judicial appeal or review. (i) The Municipal Office of Permit Coordination, on behalf of an issuing authority, may impose fees upon the applicant consistent with section fifty-three G of chapter forty-four of the General Laws. Notwithstanding the provisions of section fifty-three of chapter forty-four of the General Laws, the Municipal Office of Permit Coordination may establish a separate fee for the carrying out of its duties under this chapter and may deposit such fees in a special account. Any such account shall be established by the municipal treasurer in the municipal treasury and shall be kept separate and apart from other monies. The special account, including accrued interest, if any, shall be expended at the direction of the Municipal Office of Permit Coordination, or office designated to serve as said office, without further appropriation; provided, however, that such funds are to be expended by it only in connection with carrying out its responsibilities under this chapter. At the sole discretion of the Municipal Office of Permit Coordination, any annual surplus in fees may be used for the development of the regional plans, subject to a match of funds by the municipal legislative body.

Section 4. Any administrative appeals from permitting decisions shall be filed within twenty-one (21) days after the issuing authority renders a decision. Nothing in this subsection shall be construed to create rights of appeal where a statutory form of administrative review of appeal is not otherwise provided.

Section 5. (a) Permits shall be transferable between persons, except for permits where financial ability to meet permit requirements, posting of a bond or the qualifications of an applicant are condition of or requirement for obtaining the permit. The holder of a permit shall notify the issuing authority and the Office in writing at least thirty (30) days prior to transferring a permit. Within one hundred and eighty (180) days of the acceptance of this chapter, the municipality shall publish a list of all permits that are transferable.

(b) Issuing authorities having substantive jurisdiction over permit issuance, in consultation with the Office, are encouraged to develop procedures for simplified permit renewals and annual reporting requirements. Otherwise, renewals of permits shall be governed by the same procedures and timelines as specified in this act.

(c) Permit modification requests shall be reviewed by an issuing authority within timeframes set forth in this paragraph. An issuing authority shall inform an applicant within fifteen (15) business days of receipt of a request whether the modification is approved, denied, determined to be substantial, or additional information is required by the issuing authority in order to issue a decision. If additional information is required to be submitted, the issuing authority shall inform an applicant within fifteen (15) business days of receipt of such required additional information whether the modification is approved, denied, or additional information is still required by the issuing authority in order to render a decision. In cases in which the issuing authority determines that a requested modification is substantial, the original timeframes for permit categories as set forth in section 3(f) shall apply.

(d) Permits issued pursuant to sections two through five of this chapter shall be valid for two years from the date of the expiration of the applicable appeal period. Commencement of construction within that period shall continue upon a reasonably expeditious schedule; cessation of progress for more than six (6) months will cause permit to lapse, subject to reissuance as determined by the local authority. Where permits cover multiple dwellings, commencement and continuation of construction of one dwelling shall preserve the permit validity.

Section 6. (a) A municipality which accepts this section shall adopt the following procedure for the designation and development of Fast Track Development Sites.

For the purposes of this section, the following terms shall be defined as follows:

'Fast Track Development Site', a privately or publicly owned, municipally designated property which, at the request of the owner, is entitled to proceed with state and local permitting processes based upon a master plan of building sizes, categories of use and other relevant land use issues including brownfields, so called. There may be

several different parcels or projects within a single Fast Track Development Site.

'Fast Track Master Plan', a master plan for a Fast Track Development Site which contains all information necessary to conduct a review of a Fast Track Development Site for the purposes of state and municipal land use permits and reviews.

'Fast Track Proposal', a document containing all information related to an actual proposed development project within a Fast Track Development Site.

(b) To be eligible for designation as a Fast Track Development Site, the property shall (i) be commercially or industrially zoned, and (ii) have an aggregate building interior size of 90,000 square feet or more. Municipalities, with advice and consent of the Massachusetts Office of Business Development, may designate a property which does not meet these criteria if they determine that a proposed property presents an important opportunity for a commercial or industrial use.

(c) To have a property designated a Fast Track Development Site, the owner of the property shall file a request with the Office established pursuant to section 3(b) above. The request shall include a description of the property and buildings, and evidence of compliance with the eligibility criteria in this section. The municipality shall issue a decision within twenty (20) days. Each municipality shall establish a procedure for reviewing requests and making designations, and shall weight favorably plans which are consistent with existing or proposed area growth management and planning documents.

(d) If designated, the owner shall consult with the Office and the executive office of environmental affairs, which shall designate a high-level representative to coordinate this process, to develop the scope of information required for a Fast Track Profile.

(e) Any required reviews by the Massachusetts Environmental Policy Act, established pursuant to section sixty-one of chapter thirty of the General Laws, unit or Massachusetts Historical Commission shall be conducted concurrently and shall conclude within one hundred and twenty days of a state determination of completeness of required review materials, as shall be established by the executive office of environmental affairs. The Massachusetts Environmental Policy Act unit and the Massachusetts Historical Commission shall establish timeframes for all required filings and additional filings by the applicant in order to comply with this provision. In the event an applicant fails to comply with all such time frames, the time shall be tolled until the applicant files the required documents.

(f) Notwithstanding any law to the contrary, any public notice or hearings necessitated by a proposed project on a Fast Track Development Site shall be consolidated into a single hearing by the municipal Office and the Commonwealth.

(g) A developer of a project within a Fast Track Development Site shall file a Fast Track Proposal.

(h) The municipality and the executive office of environmental affairs shall prepare a form for Fast Track Proposals for Fast Track

Development Sites and shall designate one representative to review Fast Track Proposals. All municipal and state agencies shall render permit decisions within sixty (60) days of issuance of receipt of a completed Fast Track Proposal which falls within the Fast Track Profile or which falls within ten (10) percent differential of the Fast Track Profile, and within ninety (90) days for all other Fast Track Proposals.

(i) Permits and approvals issued relative to a Fast Track Development Site shall be valid for five (5) years. Any project or parcel for which a Fast Track Proposal has been filed within the five (5) year period shall be eligible for this process. Changes in the law subsequent to the issuance of permits based upon the Fast Track Profile shall not invalidate said permits or review certificates.

(j) A Fast Track Development Site shall also be eligible for the following benefits:

(i) Priority consideration for Community Development Action Grants and Public Works Economic Development Grants; (ii) accelerated consideration for other state resources such as quasi-public financing and training programs, (iii) brownfield remediation assistance; and (iv) enhanced marketing of the site by the Massachusetts Office of Business Development.

The provisions of this section shall not apply where the municipality and Commonwealth determine that the Fast Track Master Plan or any required submissions have omitted requested or relevant information or contained false or misleading information.

Section 7. Any municipality which adopts this chapter may also expressly adopt this section following the procedure in section two.

(a) There shall be a body known as the Land Use Board, in this act called the Board. The Board shall consist of nine members residing in the city or town. In cities five members shall be appointed by the mayor, subject to the provisions of the city charter, except that in cities having a city manager form of government, said appointments shall be by the city manager, subject to the provisions of the charter; and in towns five members shall be appointed by the selectmen, excepting towns having a town manager form of government, in which town appointments shall be made by the town manager, subject to the approval of the selectmen. Four Board members shall be elected, and may be removed, pursuant to town charter. Appointed Board members shall serve for terms of three years, provided, however, that of those initially appointed, one shall be appointed for a term of one year, two for two years, and three for three years. Elected Board members shall serve for three years, provided, however, that of those initially elected, the two receiving the first and second largest number of votes shall serve for three years, and the two receiving the third and fourth largest number of votes shall serve for two years. Any member of the commission so appointed, after a public hearing if requested, may be removed for cause by the appointing authority. A vacancy occurring otherwise than by expiration of a term shall in a city or town be filled for the unexpired term in the same manner as an original appointment or election. All five appointed commissioners shall have proven expertise in one or more of the following areas: industrial development, housing, finance,

business, real estate, environment, planning, transportation, historic preservation, public health or municipal government.

The commission may appoint a director, clerks, consultants and other employees, and may contract for materials and services within available funds insofar as the same are not supplied by other departments. At the option of the municipality, the commission may serve with or without compensation. Board members may be eligible for reappointment at the expiration of their terms.

(b) The commission shall develop and adopt, by a two-thirds majority of the commissioners, within twelve months of adoption of this section, a comprehensive set of regulations to carry out the purposes and intent of the General Laws relating to zoning, subdivision control, historic preservation, and conservation commission regulatory powers, and shall be promulgated pursuant to chapter thirty A of the General Laws. The Commission may delegate to professional employees of the commission authority to approve routine matters.

(c) The commission shall administer and enforce the regulations and in so doing may exercise the powers of a special permit granting authority, but not appeals of zoning decisions, and of a planning board of the purposes of regulating land use under chapter forty A of the General Laws and subdivision control under chapter forty-one of the General Laws, sections eighty-one X through eighty-one GG. The Board shall also have all the powers and authority conferred upon planning boards by chapter forty-one of the General Laws, sections eighty-one A through eighty-one J. The Board shall have all the powers and authority conferred upon conservation commissions for the purposes of enforcing the provisions of chapter one hundred and thirty-one of the General Laws, sections forty and forty A, provided that the Board shall administer its powers relating to the protection of wetlands in accordance with regulations issued by the Department of Environmental Protection of the implementation of the Wetlands Protection Act, provided further, that any appeal of an order of conditions issued by the Board shall be made to the Department of Environmental Protection. The Board shall also have all the powers and authority conferred upon boards of health by chapter one hundred and eleven of the General Laws, sections twenty-six through thirty-two. The Board shall also have all the powers and authority conferred upon historic district commissions by chapter forty C of the General Laws or chapter seven hundred and seventy-two of the Acts of 1975. Upon adoption, the provisions of this section shall supersede any inconsistent state or municipal law.

(d) Any person holding any elected or compensated position in the service of a city or town which accepts any portion of this chapter and who is employed in an office or agency which is merged with another or abolished or otherwise constituted shall be transferred to the Board without reduction in compensation, or impairment of any civil service, retirement, pension, seniority, vacation, sick leave or other rights or benefits to which then entitled. Any reduction in workforce which is to result from adoption of this section shall be accomplished through attrition, or other reassignment and not by dismissal.

All real and personal property in the custody and control of any agency affected by a consolidation under the provision of this section shall be transferred by the former agency to the new Board.

All monies which have been appropriated to any department or agency which is included in any consolidation under the provisions of this chapter shall, upon the establishment of the Board, be credited to the account of the new Board. The Board shall assume the position of any department or agency whose powers or functions are being assumed in all contracts in force at the time the new Board is created and in all judicial proceedings.

Section 8. If any part of sections one through seven shall be found by a court of law to be unconstitutional, invalid, or in conflict with federal or state requirements which are a condition precedent to the allocation of federal or state funds to a municipality or with the delegation of a federal or state permitting program, the remainder of these sections shall not be affected thereby.”

The amendment was adopted.

Mr. Murphy of Burlington and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 182. The bridge located on Route 3 North and extending over Route 62 in the town of Bedford, northbound bridge number B-04-011 (AYA) and southbound bridge number A-04-011 (AY9), shall be designated and known as the Michael P. Lenihan Bridge. The department of highways shall erect and maintain a suitable marker on said bridge bearing said designation in compliance with the standards of said department.”

The amendment was adopted.

Mr. Webster of Hanson then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 183. The position of Town Treasurer and Town Collector in the Town of Pembroke shall be combined and the combined position shall be appointed by the Board of Selectmen of said town for a term not to exceed three years and the person so appointed shall have all of the powers and duties by law vested in the office of said Town Treasurer and Town Collector. Any vacancy in such office shall be filled in like manner. Said Board of Selectmen may remove any person so appointed for cause after a hearing.

Notwithstanding the foregoing provisions the incumbent holding the offices to Town Treasurer and Town Collector on the effective date of this act shall continue to hold such offices and to perform the duties thereof until the expiration of the terms for which she was elected, unless she sooner vacates such offices. After the term of the incumbent Town Treasurer and Town Collector holding such offices on the effective date of this act have both expired, or both offices are sooner vacated, the Board of Selectmen shall appoint a Treasurer/Collector in the manner set forth above. Should the incumbent Town Treasurer remain in office, upon the expiration of her term in 2005, the Board of Selectmen will appoint her Interim Town Treasurer until her term as Collector expires in 2006. The Board of Selectmen may appoint a Treasurer/Collector as described above.

Notwithstanding Chapter 32 of the General Laws, Section 116 of Chapter 46 of the Acts of 2003 or any other general or special law to the contrary, the incumbent Treasurer and Collector on the effective date of this section shall be eligible for retirement under section 116 of Chapter 46 of the Acts of 2003, provided however, that said incumbent must file an application for retirement by a date to be determined by the Board of Selectmen, such date to be not later than September 6, 2004, and provided further, that notwithstanding Section 5 of Chapter 32, requiring a retirement date within four months of filing of an application for superannuation retirement, the Board of Selectmen may determine a retirement date not earlier than September 6, 2004 and not later than her term ending on April 30, 2005.”

The amendment was adopted.

Mr. Falzone of Saugus then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 184. The care, custody, control and title to all water pipes and mains located under Routes 1 and 99 in the town of Saugus are hereby transferred to the Massachusetts Water Resources Authority.”

The amendment was adopted.

At six minutes after six o'clock P.M. (Tuesday, April 27), on motion of Mr. Scaccia of Boston (Mr. DiMasi of Boston being in the Chair), the House recessed until seven o'clock; and at that time the House was called to order with the Speaker in the Chair.

Recess.

Mr. Carron of Southbridge and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 185. 57C of chapter 59 of the General Laws, as most recently amended by section 46 of chapter 46 of the Acts of 2003, is hereby amended by inserting in the first paragraph, after the second sentence, the following new sentences:— The preliminary tax shall in no event exceed fifty percent of one hundred and two and one-half percent of the tax payable during the preceding fiscal year and of the amount by which such tax would have increased if any referendum question submitted to the voters under the provisions of paragraph (g), (i½), (j) or (k) of section twenty-one C and approved for the fiscal year had been approved for the preceding fiscal year. In the case of cities and towns with semi-annual tax payments, the preliminary tax shall be due and payable in 1 installment, due on October 1, after which dates, if unpaid, they shall become delinquent and subject to interest as provided herein.”

The amendment was rejected.

Mrs. Pope of Wayland and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 185. Section 57 of Chapter 59 of the General Laws, as most recently amended by section 52 of the Acts of 2003, is hereby amended by striking out the last sentence of the first paragraph and inserting in place thereof the following new sentence: “A real estate tax bill sent out for fiscal year 2006 or any subsequent

period pursuant to this section shall contain a statement that there exists a delinquency if any tax, betterment assessment or apportionment thereof, water rater, annual sewer use, or other charge which may constitute a lien is overdue more than 90 days.”.

The amendment was adopted.

Mr. Driscoll of Braintree then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 186. Notwithstanding any general or special law to the contrary, the town of Braintree may impose an excise upon the transfer of occupancy of any room or rooms in a bed and breakfast establishment, hotel, lodging house or motel located in said town at a rate not to exceed 7 per cent subject to all other provisions of section 3A of chapter 64G of the General Laws.”.

The amendment was rejected.

Messrs. O’Brien of Kingston and deMacedo of Plymouth then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 186. Chapter 259 of the Acts of 2003 is hereby amended by striking out section 4 and inserting in place thereof the following section:—

Section 4. The conveyance of the easement authorized in section 1 shall be for nominal consideration.”.

Pending the question on adoption of the amendment, the same members moved that it be amended by striking out the year “2003” and inserting in place thereof the year “2002”; and by inserting after the word “consideration” the words “of one dollar”.

The further amendments were adopted; and the pending amendment, as amended, then also was adopted.

Mr. Marzilli of Arlington then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 187. Section 21A of chapter 44 of the General Laws is hereby amended by striking out the first sentence and inserting in place thereof the following:

The city council of a city, the board of selectmen of a town and the prudential committee, if any, otherwise, the commissioners of a district, may authorize and provide for the issuance of refunding bonds or notes of the city, town or district for the purpose of paying or refunding all or any designated part of an issue of bonds or notes then outstanding, including the amount of any redemption premium thereon; provided, further, that, notwithstanding any provision of any general or special law, city charter, city ordinance or city council rule or order to the contrary, any vote of the city council of a city authorizing and providing for the issuance of refunding bonds or notes of the city may be introduced and given final passage at one meeting of the city council, shall not be subject to any publication requirement, shall not be subject to any referendum provision, and shall be effective upon passage.

SECTION 188. Section 21A of chapter 44 of the General Laws is hereby amended by deleting the first clause of the second sentence and by inserting in place thereof, the following new clause: ‘The first annual payment of principle on account of an issue of refunding bonds or notes shall not be later than the last day of the fiscal year in

which any of the bonds or notes being refunded would otherwise have been payable and the annual payments thereafter shall be arranged in accordance with the provisions of section nineteen’.”.

The amendment was adopted.

Mr. Naughton of Clinton then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 189. Notwithstanding any general or special law to the contrary, the commonwealth hereby cedes concurrent jurisdiction to the United States over the lands, waters, and improvements in the town of Harvard that (a) are presently owned or hereafter acquired by condemnation or otherwise, leased, occupied, or controlled by the United States for the use by the Federal Bureau of Prisons, and (b) comprise any part of the correctional institution presently known and identified as the Federal Medical Center.

SECTION 190. Cession of concurrent jurisdiction pursuant to section 1 shall take effect only upon acceptance of such jurisdiction by the United States pursuant to 40 U.S.C. 255. Exclusive jurisdiction over all or any portion of the property described in section 1 shall revert in the commonwealth if such property ceases to be used by the United States for correctional purposes.”.

The amendment was rejected.

Mr. Naughton then moved that the bill be amended by adding at the end thereof the following four sections:

“SECTION 189. Notwithstanding the provisions of any general or special law to the contrary, the Town of Lancaster through the Worcester Regional Retirement Board is hereby authorized and directed to pay to Claire B. McNamara, the surviving spouse of Firefighter Martin H. McNamara V, so long as she remains unmarried, an accidental death benefit allowance to consist of a yearly amount of annuity equal to 2/3s of the average annual salary of a first year career firefighter in the local area; such average to be determined by a survey of not less than 3 surrounding towns which are member units of the Worcester Regional Retirement System, such towns as determined by the Worcester Regional Retirement System, in consultation with the Public Employee Retirement Administration increased 2,600 for each child of Firefighter Martin H. McNamara V during such time as each child is under 18 years of age or 21 years of age if a full time student or such child over 18 years of age who is physically or mentally incapacitated from earning. If there is no surviving spouse or the surviving spouse later dies, such an annuity shall be paid to the eligible children in equal shares. If the surviving spouse marries an annuity of 12,000 should be made annually to the eligible children. For the purposes of this act, the words, “full-time student” shall mean a child who is in full-time attendance in an accredited educational institution offering full-time courses of study equivalent to or higher than secondary school study. The words “accredited educational institution” shall mean any school, college or university that is licensed, approved or accredited, as the case may be, in the state in which it is located. Any annuity granted under this section shall be increased by the same percentage allowed to other retirees or their dependents. Such amounts as are necessary to cover the obligations contained herein shall be raised and appro-

priated in an amount not to exceed \$650,000 contingent upon an override of the provisions of General Laws Chapter 59, Section 21C, Proposition 2 ½ so-called, by approval of the voters, said override to be limited to the period of one year and to provide for the purchase of an annuity instrument to provide for the financial obligations as imposed upon the Town by the provision of this Act, exclusive of those obligations imposed by Section 191 hereof.

SECTION 190. The benefits provided by section 189 of this act shall be in the alternative to the benefits authorized by any other general law as it obligates the town of Lancaster. If the town of Lancaster makes payment under section of this act, it shall have no further obligation to Claire B. McNamara or her dependents under any other general or special law.

SECTION 191. Notwithstanding the provisions of section 190 of this act, Claire B. McNamara, the surviving spouse of Firefighter Martin H. McNamara V, so long as she remains unmarried, and her dependents, shall be eligible for health insurance through the town of Lancaster on the same basis as all other retirees and be responsible for the retirees' share of all premiums.

SECTION 192. This act shall be submitted to the voters of the town of Lancaster at the State election to be held on November 2, 2004, in the form the following question, which shall be placed upon the official ballot to be used for the election of state officials at said election: 'Shall an act passed by the General Court in the year 204, entitled "An Act Authorizing the Town of Lancaster to Pay a Survivor Benefit and Extend Health Insurance Coverage to Claire B. McNamara and Her Dependents" be accepted?' If a majority of the votes cast in answer to said question is in the affirmative, but not otherwise, this act shall take effect immediately.'

The amendment was adopted.

Mr. Naughton of Clinton then moved that the bill be amended by adding at the end thereof the following section:

"SECTION 193. Notwithstanding the provisions of section 100G¼ of chapter 41 or any other General or special law to the contrary, the town of Lancaster may pay the reasonable expenses, not exceeding \$21,000, of the funeral and burial of Firefighter Martin H. McNamara V who died in the performance of his duties."

The amendment was adopted.

The same member then moved that the bill be amended by adding at the end thereof the following four sections:

"SECTION 194. Notwithstanding section 22A and section 21C of chapter 59 of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Lancaster shall, at least 10 days before any election at which a binding or non-binding question shall be submitted solely to the voters of said town, cause to be posted in one or more locations in the town and/or on the Town's official website, and/or published in a newspaper in general circulation in the Town, as may be determined by bylaw, and, at the discretion of the board of selectmen, subject to available funds and any other conditions that may be imposed by bylaw, cause to be printed and sent to each residence of 1 or more voters whose name

appears on the official voting list and shall make available at each polling place the full text of such question, a fair and concise summary of each question, including a 1 sentence statement describing the effect of a yes or no vote prepared by the town counsel and arguments for and against the question as provided in section 195.

SECTION 195. The board of selectmen of the town of Lancaster shall cause to be posted in one or more locations in the town, and/or on the town's official website, and/or publishing in a newspaper in general circulation in the town, as may be determined by bylaw, and, at the discretion of the board of selectmen, subject to available funds and any other conditions that may be imposed by bylaw, cause to be printed and sent, in the manner provided in section 194, arguments for and against each question submitted solely to the voters of said town pursuant to any General Law, including but not limited to, section 21C of chapter 59 of the General Laws. The principal proponents of any such question shall coordinate the preparation and submission to the board of selectmen of one argument, and the principal opponents of any such question shall coordinate the preparation and submission to the board of selectmen of one argument. No argument shall contain more than 250 words. Said board of selectmen shall seek such written arguments from the principal proponents and opponents of each such question. Said board of selectmen shall designate a date by which written arguments must be received, in a written notice to the principal proponents and opponents. Said notice must be issued at least 14 days before the date by which the written arguments must be received. For the purposes of this act, the principal proponents and opponents of any such question shall be those persons determined by said board of selectmen to be best able to present the arguments for and against such question. The principal proponents or opponents of such a question may include a town officer or committee, and the principal proponents may include the first ten signers or a majority of the first ten signers of any petition initiating the placement of such question on the ballot. In determining the principal proponents and opponents of such a question, said board of selectmen shall contact each ballot question committee, if any, as defined in section 1 of chapter 55 of the General Laws, organized specifically to influence the outcome of the vote on such question. If no argument is received by said board of selectmen within the time allowed by this act, said town counsel shall prepare such argument. All arguments filed with or prepared by the board of selectmen pursuant to this act, and the summary prepared pursuant to section 194, shall be open to public inspection at the office of the town clerk of said town.

SECTION 196. The official ballot shall include the summary and statement describing the effect of a yes or no vote as provided in clause (2) of section 194.

SECTION 197. This act shall also apply where the question presented involves the regional district of which the town of Lancaster is a member or involves a joint undertaking by said town of Lancaster and any one or more cities or towns."

The amendment was adopted.

Messrs. deMacedo of Plymouth and O'Brien of Kingston then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 198. Notwithstanding any general or special law to the contrary, the Plymouth Retirement Board may, in accordance with guidelines established by the Public Employee Retirement Administration Commission, purchase the real property located at 89 Court Street, Plymouth, Massachusetts for the purpose of the use of said property for the administrative office of the Plymouth Retirement Board, and may purchase or lease equipment and employ any such personnel necessary for the proper administration and transaction of business of the retirement system.”

The amendment was adopted.

Representatives Garry of Dracut and Pignatelli of Lenox then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 199. Section 57C of Chapter 59 of the General Laws, as most recently amended by section 46 of Chapter 46 of the Acts of 2003, is hereby amended by inserting in the first paragraph, after the second sentence, the following new sentences: The preliminary tax shall in no event exceed fifty percent of one hundred and two and one-half percent of the tax payable during the preceding fiscal year and of the amount by which such tax would have increased if any referendum question submitted to the voters under the provisions of paragraph (g), (i½), (j), or (k) of section twenty-one C and approved for the fiscal year had been approved for the preceding fiscal year. In the case of cities and towns with semi-annual tax payments, the preliminary tax shall be due and payable in 1 installments, due on October 1, after which dates, if unpaid, they shall become delinquent and subject to interest as provided herein.”

The amendment was rejected.

Mr. Fagan of Taunton then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 199. Striking M.G.L. S58A of Ch. 31 and inserting in place thereof the following:—

Notwithstanding the provisions of any general or special law to the contrary, in any city, town or district that accepts this section, no person shall be eligible to have his name certified for original appointment to the position of firefighter or police officer or apprentice lineman in a municipal light department, if such person has reached his thirty second birthday on the date of the entrance examination. Any veteran shall be allowed to exceed the maximum age provision of this section by the number of years served on active military duty, but in no case shall said candidate for appointment be credited more than four years of active military duty.”

The amendment was adopted.

Mr. Finegold of Andover and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 200. Notwithstanding any general or special law to the contrary, the commissioner of revenue shall be required to report on department of revenue's success and accomplishments in

improving tax compliance with the registration of motor vehicles, in improving compliance with payment of the auto excise and sales tax, in reducing insurance fraud relating to improper motor vehicle registration, and in reducing number of tax scofflaws who register motor vehicles out of the state. Said department shall file a report with the house and senate committees on taxation, house and senate committees on public safety, and house and senate committees on insurance, no later than December 15, 2004. Findings of said report shall include any legislative recommendations the department finds necessary to improve the current motor vehicle registration process.”

After remarks the amendment was adopted.

Messrs. Timilty of Milton and Casey of Winchester then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 201. Section 13 of Chapter 58 of the General Laws, as appearing in the 2002 Official Edition is hereby amended in lines 14 and 15 by striking out ‘environmental management’ and inserting in place thereof ‘conservation and recreation’.”

The amendment was adopted.

Mr. Correia of Fall River being in the Chair,— Mr. Rogers of Norwood and other members of the House then moved that the bill be amended by striking items 1410-0012, 1410-0250 and 4190-0100 and inserting in place thereof the following three items:

“1410-0012 For services to veterans, including the maintenance and operation of outreach centers; provided, that said centers shall provide counseling to incarcerated veterans and to Vietnam era veterans and their families who may have been exposed to agent orange; provided further, that not less than \$228,771 shall be obligated for a contract with the Veterans Benefit Clearinghouse in the Roxbury section of Boston; provided further, that not less than \$82,757 shall be obligated for a contract with the Veterans Northeast Outreach Center in the city of Haverhill; provided further, that not less than \$106,102 shall be obligated for a contract with the North Shore Veterans Counseling Center in the city of Beverly; provided further, that not less than \$84,879 shall be obligated for a contract with the Veterans Association of Bristol county in the city of Fall River; provided further, that not less than \$94,501 shall be obligated for a contract with NamVets of the Cape and Islands in the town of Hyannis; provided further, that not less than \$84,879 shall be obligated for a contract with the Outreach Center, Inc., in the city of Pittsfield; provided further, that not less than \$292,480 shall be obligated for a contract with the Montachusett Veterans Outreach Center in the city of Gardner; provided further, that not less than \$84,453 shall be obligated for a contract with the Metrowest/Metrosouth Outreach Center in the town of Framingham; provided further, that

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not less than \$15,000 be expended for the oral history project at the Morse Institute Library in Natick; provided further, that not less than \$50,000 shall be expended for Veteran's Services to be administered by the Falmouth Veterans Agent through the Falmouth Free Clinic and Community Center; and provided further, that not less than \$134,879 shall be obligated for a contract with the Puerto Rican Veterans Association of Massachusetts, Inc., in the city of Springfield ..... 1,258,701

1410-0250 For homelessness services; provided, that not less than \$453,966 shall be obligated for a contract with the central Massachusetts shelter for homeless veterans located in the city of Worcester; provided further, that not less than \$352,395 shall be obligated for a contract with the southeastern Massachusetts veterans housing program, Inc. located in the city of New Bedford; provided further, that \$100,350 shall be obligated for a contract with the Veterans Benefit Clearinghouse located in Dorchester; provided further, that not less than \$199,405 shall be obligated for a contract with Unity House located in the city of Gardner; provided further, that not less than \$75,000 shall be obligated for a contract with the Transition House located in the city of Springfield; provided further, that not less than \$51,975 shall be expended for a contract with the Springfield bilingual veterans outreach center for the operation and maintenance of a transitional housing unit at the YMCA of Springfield; provided further, that not less than \$44,888 shall be obligated for a contract with the Mansion located in the city of Haverhill; provided further, that not less than \$28,350 shall be obligated for a contract with the Homestead located in the town of Hyannis; provided further, that not less than \$120,000 shall be obligated for contracts with the veterans hospice homestead in the city of Leominster and the veterans hospice in the town of Fitchburg; provided further, that not less than \$22,500 shall be obligated for a contract with the Turner House located in the town of Williamstown; provided further, that not less than \$73,350 shall be obligated for a contract with the Veterans Benefit Clearinghouse located in Roxbury; provided further, that not less than \$200,000 shall be obligated for a contract with the United Veterans of America shelter located in the town of Leeds; and provided further, that not less than \$90,000 shall be obligated for a contract with Habitat P.L.U.S. in the city of Lynn ..... 1,812,179

4190-0100 For the maintenance and operation of the Soldiers' Home in Holyoke including the adult day care program, the Maguder House and the Chapin Mansion; provided, that in the operation of the outpatient pharmacy, said Soldiers' Home shall cover the cost of drugs prescribed at said Soldiers' Home, excluding the required co-payment, only when the veteran has no access to other drug insurance coverage, including coverage through the program authorized by section 39 of chapter 19A of the General Laws ..... 16,658,929";

By inserting after item 1410-0250 the following item:

1410-0251 For homelessness services, including the maintenance and operation of homeless shelters and transitional housing for veterans at the New England Shelter for Homeless Veterans located in the city of Boston ..... 2,093,735";

By adding at the end thereof the following section:

"SECTION 202. Notwithstanding any general or special law to the contrary, there is hereby established a commission to study investigations of abuse of the disabled. The commission shall be comprised of six members, provided that three members shall be members of the House of Representatives appointed by the Speaker of the House of Representatives and three members shall be members of the Senate appointed by the President of the Senate. The commission shall study cases of abuse of the disabled, including but not limited to the following: clients of the Department of Mental Retardation, Department of Mental Health, Massachusetts Rehabilitation Commission, Massachusetts Commission for the Deaf and Hard of Hearing, Massachusetts Commission for the Blind, and other departments serving the disabled citizens of the commonwealth. The commission shall report its recommendations, if any, to the clerks of the House of Representatives and Senate no later than November 15, 2003.";

By striking out items 4120-2000, 4120-3000, 4120-4000 and 4120-6000 and inserting in place thereof the following four items:

"4120-2000 For vocational rehabilitation services operated in cooperation with the federal government; provided, that no funds from the federal vocational rehabilitation grant or state appropriation shall be deducted for pensions, group health and life insurance and any other such indirect cost of the federally reimbursed state employees; and provided further, that the commissioner, in making referrals to service providers, shall take into account the client's place of residence and the geographic proximity of the nearest provider to said residence; provided further, that not less than \$100,000 shall be expended on special vocational projects in the Charlestown neighborhood of Boston for people with disabilities; provided further, that not less than \$100,000 shall be expended for services provided by the Life Focus Center in the Charlestown neighborhood of Boston ..... 7,459,207

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4120-3000	For employment assistance services; provided, that vocational evaluation and employment services for severely disabled adults may, subject to appropriation; provided further, that not less than \$100,000 shall be expended for the Charlestown Navy Yard projects for disabled adults in the Charlestown neighborhood of Boston; provided further that not less than \$100,000 shall be expended on special projects in the Charlestown neighborhood of Boston for people with disabilities .....	7,779,046
4120-4000	For independent living assistance service; provided, that not more than \$858,000 shall be expended for assistive technology devices and training for individuals with severe disabilities; provided further, that no less than \$25,000 will be used to assist the Living Independently for Equality, Inc. of Brockton; and provided further, that not more than \$200,000 may be expended for the Center for Rehabilitation Engineering at the University of Massachusetts/Dartmouth.....	7,520,512
4120-6000	For head injured services; provided, that the commission shall work with the division of medical assistance to maximize federal reimbursement for clients receiving head injured services; and provided further, that not less than \$50,000 shall be expended for the Cape Cod head injury program .....	6,000,568";

In item 4120-5000 by striking out the figures "4,240,768" and inserting in place thereof the figures: "4,339,768";

In item 4110-1000 by adding at the end thereof the following: "provided further, that not less than \$350,000 shall be expended from this item for the deaf-blind community access network; and provided further, that not less than \$500,000 shall be expended for the talking information center;";

In section 2, in item 4110-1000, by striking the figures "3,713,070" and inserting in place thereof the figures: "3,763,070";

In item 4110-2000 by striking out the figures "7,992,775" and inserting in place thereof the figures: "8,074,775";

In item 4125-0100 by striking out the figures "4,929,536" and inserting in place thereof the figures: "5,219,536";

In item 1107-2400 by striking out the figures "543,469" and inserting in place thereof the figures: 573,469; and

By striking out item 1150-5104 and inserting in place thereof the following item:

"1150-5104	The Massachusetts commission against discrimination may expend revenues from federal reimbursements received for the purposes of the United States department of housing and urban development fair housing type 1 program and the equal opportunity resolution contract program during fiscal year 2005 and federal reimbursements received for these and other
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programs in prior years; provided, that the commission may also expend revenues generated through the collection of fees and costs so authorized; provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the commission may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; provided further, that notwithstanding section 1 or any other general or special law to the contrary, revenues received in excess of \$2,467,982 shall be credited to the General Fund .....	2,467,982".
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The amendments were adopted.  
 Mr. Bradley of Hingham then moved that the bill be amended by adding at the end thereof the following section:

"SECTION 203. Notwithstanding any provisions of chapter 32 or any other general or special law or rule or regulation to the contrary, the state board of retirement is hereby authorized and directed to credit Michael P. Boyle and James P. Costello with service they rendered as members of the staff of the joint labor management committee from January, 1980 to August, 1987 inclusive, for the purpose of determining their superannuation retirement allowance pursuant to the provisions of paragraph (a) of subdivision (2) of section 5 of said chapter 32. Eligibility for said creditable service shall be conditioned upon payment into the Annuity Savings Fund of the state employees retirement system of an amount equal to the contributions they would have otherwise paid into the retirement system for said period of service based upon the salary each received for said period together with regular interest thereon. Such payments shall be made in one sum or installments as the state board of retirement shall prescribe."

The amendment was rejected.  
 Mr. Bradley then moved that the bill be amended by adding at the end thereof the following section:

"SECTION 203. Notwithstanding the provisions of any general or special law to the contrary, and in order to promote the public good, the state board of retirement shall credit Maureen O'Donnell, a Probation Officer at the Probate Court in Springfield, with an additional 14 months of creditable service, for the purposes of determining her retirement allowance pursuant to chapter 32 of the General Laws. Eligibility for said creditable service shall be continued upon payment to the state employees' retirement system of an amount equal to the contribution she would have otherwise owed for said period of creditable service together with regular interest thereon. Such repayment shall be made in one sum, or in installments, as the state retirement board shall prescribe. Said Maureen O'Donnell shall be entitled to and shall receive all annual cost of living adjustments to her annual pension granted under section 102 of said chapter 32 or any other general or special law."

The amendment was rejected.

Mr. Koczera of New Bedford and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 203. The Public Employee Retirement Administration Commission in consultation with the state and state teacher’s retirement boards, is hereby authorized and directed to analyze, study, and evaluate the costs and actuarial liabilities attributable to increasing the base to which cost of living adjustments are applied under Section 102 of Chapter 32 of the General Laws. The study shall include the cost and actuarial liability associated in increasing the base from 12,000 to 22,000 incrementally by the thousand. In order to effectuate the funding for the change in the base, the commission shall prepare supplemental pension funding schedules which shall be designed to reduce the actuarial unfunded liability, attributable to the increased COLA base, to zero on or before June 30, two thousand and twenty-eight and shall provide two alternative schedules providing the option of reducing said unfunded liabilities to zero by June 30, two thousand and thirty-four and June 30, two thousand thirty-eight, respectively; provided that in preparing such schedules, the commission shall consider the actuarial value and the market value of the system’s assets and liabilities, the long term investment rate of return on the systems assets and the system’s unfunded actuarial liability. The commission shall file said study together with its recommendations and proposed funding schedule to the House and Senate Committees on Ways and Means, along with the Joint Committee on Public Service on or before December 31, 2005. In addition, the commission shall provide assistance in developing funding schedules for the purpose of increasing the COLA base to city, town, county, regional, district and authority retirement systems at the request of the appropriate retirement board.”.

The amendment was adopted.

Mr. Koczera then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 204. Subdivision (1) of section 12 of chapter 32 of the General Laws, is hereby amended by striking out the second sentence, as amended by section 17 of chapter 306 of the acts of 1996, and inserting in place thereof the following sentence:— Any member who is retired for disability under the provisions of section six, section seven or who is retired under the provisions of subdivision (2) of section twenty-six, may elect to have his allowance paid in accordance with the terms of option (a), option (b), or option (c), provided, however, that, in the event that the surviving eligible beneficiary of said member, under said option (c), is eligible for a benefit under section nine, said beneficiary shall elect to receive either a benefit pursuant to option (c) or a benefit pursuant to said section nine, but in no event shall said beneficiary be eligible for both benefits.”.

The amendment was adopted.

Mr. Koczera of New Bedford then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 205. Section 91A of Chapter 32 of the General Laws is hereby amended by striking the words ‘cease and shall in no event be reinstated’ as they appear in lines 14 and 15 of the 2002 Official Edition and inserting in place thereof the word ‘terminate’.

SECTION 206. Section 91A of Chapter 32 of the General Laws is further amended by inserting after the word ‘section.’ as it appears in line 16 of the 2002 Official Edition the sentence ‘Termination of the member’s rights in and to the retirement allowance shall take place as of the date such statements should have been filed and under no circumstances shall the member be entitled to recover the amount of any retirement allowance for the period during which the member’s rights in and to the retirement allowance has been terminated for failure to comply with the reporting requirements of this section.’.”.

The amendment was adopted.

Mr. Koczera then moved that the bill be amended by adding at the end thereof the following eight sections:

“SECTION 207. Subdivision (2) of section 7 of Chapter 32 of the General Laws is hereby amended by inserting after the word ‘retirement’ as it appears on line 90 of the 2002 Official Edition, the words ‘or, if over said age and under age twenty-two, is a full-time student at an accredited educational institution...’.

SECTION 208. Subdivision (2) of section 7 of Chapter 32 of the General Laws is hereby amended by striking out the words ‘twenty-one’ as they appear in line 97 of the 2002 Official Edition and inserting in place the words ‘twenty-two.’

SECTION 209. Subdivision (2)(b) of section 9 of Chapter 32 of the General Laws is hereby amended by inserting after the word ‘death’ as it appears in line 57 of the 2002 Official Edition, the words ‘or are over said age and under age twenty-two and full-time students at an educational institution.’

SECTION 210. Subdivision (2)(d) of Section 9 of Chapter 32 is amended by striking out the words ‘twenty-one’ as they appear in line 73 and line 79 of the 2002 Official Edition, and inserting in place thereof the words ‘twenty-two.’

SECTION 211. Section 12B of Chapter 32 of the General Laws is hereby amended by striking out the words ‘twenty-one’ as they appear in line 36 and line 37 of the 2002 Official Edition, and inserting in place thereof the words ‘twenty-two.’

SECTION 212. Subdivision 2 of Section 26 of Chapter 32 is hereby amended by striking out the words ‘twenty-one’ as they appear in line 57 of the 2002 Official Edition, and inserting in place thereof the words ‘twenty-two.’

SECTION 213. Subdivision (2) of section 26 of Chapter 32 of the General Laws is hereby amended by inserting after the word ‘retirement’ as it appears on line 53 of the 2002 Official Edition, the words ‘or, if over said age and under age twenty-two, is a full-time student at an accredited educational institution...’

SECTION 214. Section 100 of Chapter 32 is hereby amended by striking out the words ‘twenty-one’ as they appear in line 32 of the 2002 Official Edition, and inserting in place thereof the words ‘twenty-two’.”.

The amendment was adopted.

Mr. Fallon of Malden then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 215. Subdivision (1) of section 4 of chapter 32 of the General Laws, as appearing in the 2000 Official Edition, is hereby further amended by inserting after paragraph (0½) the following paragraph:

(0¾) Any member eligible to receive a retirement benefit pursuant to the provisions of this chapter who served as a member of the zoning board of appeals or as a member of the conservation commission for a city or town, in which position he received no compensation, may establish credit for such service by depositing in the annuity savings fund of the system of which he is a member a sum equal to the amount which would have been paid into such fund during such period if such position had been compensated at the rate of \$2,500 per year, plus regular interest to the date of payment.”

The amendment was rejected.

Mr. Fallon then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 215. That any individual who has been in the state employment for more than twenty-five (25) years, with at least (10) or more years of said twenty-five (25) years having been in the employment of the Massachusetts Superior Court System as a first or second assistant clerk and who also was employed whether part-time or full-time by the Massachusetts Superior Court System for at least three (3) years prior to said twenty-five (25) year tenure will be eligible for early retirement at 90% compensation rate equivalent to his or her current salary, if said individual makes application for an early retirement on or before 12/31/04.”

The amendment was rejected.

Mr. Fallon then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 215. Chapter 32 of the General Laws of 1998 is hereby amended in Section 91A by striking in line 20 the word “five” and inserting in place thereof the following: ‘fifteen’.”

The amendment was rejected.

Mr. Ciampa of Somerville and other members of the House then moved that the bill be amended by inserting at the end thereof the following section:

“SECTION 215. Section 11 of chapter 32B of the General Laws, as so appearing, is hereby amended by inserting after the second paragraph the following paragraphs:— Notwithstanding any charter or ordinance to the contrary, the appropriate public authority of the cities of Cambridge, Chelsea, Everett, Malden, Medford, Melrose, Quincy, Revere and Somerville may notify the appropriate public authority of the city of Boston of its election to participate in the schedule of benefits made available by said city of Boston for its employees and, subject to the approval of the appropriate public authority of said such city of Boston and under such terms and conditions and rules and regulations as may be prescribed from time to time by the appropriate public authority of the city of Boston, the employees of the city so applying shall become insured at the earliest practicable date as participants in a city of Boston group health or life benefit plan. Nothing in this paragraph shall prohibit the appropriate public authority of the city of Boston from prohibiting participation by applying cities in certain benefit programs made

available by said city of Boston for its employees. Nothing in this paragraph shall prevent a participating city from withdrawing from participation upon reasonable notice provided by the appropriate public authority of the participating city to the appropriate public authority of the city of Boston. A city granted approval to participate in the city of Boston’s schedule of benefits that incurs costs by so joining or exiting including but not yet limited to paying for claims which have been incurred but not yet paid may amortize such costs over a period of not more than 10 years from the date of such approval or exit.

Nothing in this section shall abrogate any provision of chapter 150E or any collective bargaining agreement with respect to health benefits or to impact adversely the rights and benefits of public employees pursuant to any collective bargaining agreement.”

The amendment was adopted.

Mr. Fennell of Lynn then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 216. Section 3 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after the word ‘Airport’ in line 304, the following words:— , and Port of Boston and after the word ‘men,’ in line 305, the second time it appears, the following words:— , port lieutenants, port sergeants and port officers.”

The amendment was rejected.

Mr. Frost of Auburn then moved that the bill be amended by adding at the end thereof the following three sections:

“SECTION 216. Notwithstanding the provisions of paragraph (h) of subdivision (1) of section 4 of chapter 32 of the General Laws or of any other general or special law or rule or regulation to the contrary, any member inactive who has been retired and who is receiving a retirement allowance and who is a veteran, who served in the armed forces of the United States between January 1, 1940 and the termination of the Selective Service Act of 1948, shall be entitled to credit for such service in the armed forces of the United States; provided, however, that such service shall not be credited until such member inactive who has been retired has paid into the annuity savings fund of such system, in one sum or in installments, upon such terms and conditions as the board may prescribe, makeup payments, for each year of creditable service sought, of an amount equal to the ten percent of the regular annual compensation of the member inactive when said member inactive entered the retirement system; provided further, that such creditable service shall not be construed to include service for more than four years; provided further, that such creditable service shall not be allowed for any period of active service for which said veteran has received credit pursuant to paragraph (h) of subsection (1) of section 4 of chapter thirty-two of the General Laws or for which said veteran receives a federal military pension; and provided further, that any increase in the amount of retirement allowance for any such member shall be effective beginning, January 1, 2002.

SECTION 217. Section 4 of Chapter 32 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended in

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line 132 by striking out the words: 'and who has completed ten or more years of membership service'.

SECTION 218. Section 3 of Chapter 71 of the Acts of 1996 is hereby amended by striking out the second paragraph and inserting in place the following:—

'Members in service of a retirement system eligible for said creditable service under this act shall make application for said creditable service not earlier than the date of becoming eligible and not later than 180 days after being notified by the retirement board of their eligibility after becoming vested in the retirement system, or for currently eligible members, within 180 days of the acceptance of this act by the local legislative body.' ”.

The amendment was rejected.

Ms. Peisch of Wellesley and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 216. Section 4 of chapter 32 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out , in lines 5 to 10, the words “provided, that he shall be credited with a year of creditable service for each calendar year during which he served as an elected official; and provided, further, that in no event shall he be credited with more than one year of creditable service for all such membership service rendered during any one calendar year,” and inserting in place thereof the following words: “provided, that he shall be credited with a year of creditable service for each calendar year during which he served for at least 356 days as an elected official; and provided, further, that in no event shall he be credited with more than one year of creditable service for all such membership service rendered during any one calendar year.”.

Pending the question on adoption of the amendment, Mr. Koczera of New Bedford moved that it be amended by striking out the text contained therein and inserting in place thereof the following:

“SECTION 216. Section 4 of chapter 32 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in lines 5 to 7, the words ‘provided, that he shall be credited with a year of creditable service for each calendar year during which he served as an elected official;’ and inserting in place thereof the following words: ‘provided, creditable service for an elected official shall be prorated based upon the number of days served as an elected official in a calendar year.’”.

The further amendment was adopted, thus precluding a vote on the pending amendment.

*Recess.*

Recess.

The Speaker having taken the Chair,— at the hour of nine o'clock P.M. (Tuesday, April 27), on motion of Mr. Linsky of Natick, the House recessed until the hour of ten o'clock A.M. on Wednesday, April 28.

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